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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Extrajudicial, summary or arbitrary executions

Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1994/82

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Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 1994/82 of 9 March 1994, entitled "Extrajudicial, summary or arbitrary executions". This report is the third presented to the Commission on Human Rights by Mr. Bacre Waly Ndiaye. It is the twelfth since the mandate was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982.

2. Chapter I of the present report contains the terms of reference for the discharge of the mandate in conformity with the aforementioned resolution and for requests, made to the Special Rapporteur by the Commission on Human Rights in other resolutions, to pay particular attention to a number of issues related to violations of the right to life, as well as an overview of the types of violations that fall within the mandate. Chapter II briefly refers to the methods of work applied by the Special Rapporteur in the discharge of his mandate. In chapter III, the Special Rapporteur presents an account of the activities he has undertaken during the past years. More details on the Special Rapporteur's work with regard to specific countries can be found in chapter IV, which contains an analysis of the information received concerning violations of the right to life, a summary of the allegations transmitted to Governments and received from them as well as follow-up with authorities and sources, and, where appropriate, specific comments, conclusions and observations. Finally, in chapter V, the Special Rapporteur sets forth his conclusions and closes his report with recommendations designed to improve respect for the international instruments and standards to which his mandate refers. The Special Rapporteur's introductory statement in which he presented his report to the Commission on Human Rights at its fiftieth session is included as annex to the present report.

3. The findings and concerns of the Special Rapporteur with regard to the situation of the right to life in East Timor on the basis of an on-site visit there in July 1994 are contained in an addendum to the present report (E/CN.4/1995/61/Add.1). The report on the Special Rapporteur's mission to Colombia, carried out in October 1994 jointly with the Special Rapporteur on the question of torture, is contained in a second addendum E/CN.4/1995/111). These mission reports also contain observations, conclusions and recommendations.

I. THE MANDATE

4. As in former years, the Commission on Human Rights, in resolution 1994/82, requested the Special Rapporteur to continue to examine situations of extrajudicial, summary or arbitrary executions (para. 5) and to pay special attention to extrajudicial, summary or arbitrary executions of children and women and to violations of the right to life in the context of violence against participants in demonstrations and other peaceful manifestations or against persons belonging to national or ethnic, religious and linguistic minorities (para. 8). In the same resolution, the Commission also requested the Special Rapporteur to continue monitoring the implementation of existing standards on safeguards and restrictions relating to the imposition of capital punishment (para. 10).

5. Several other resolutions of the Commission on Human Rights also have a bearing on the Special Rapporteur's mandate, as they set forth requests to special rapporteurs to pay particular attention to a number of issues within the framework of their mandates:

(a) In resolution 1994/22, entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities", the Special Rapporteur is urged to continue to give due regard to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) In resolution 1994/33, entitled "Right to freedom of opinion and expression", the Special Rapporteur is invited to pay attention, in the framework of his mandate, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression;

(c) In resolution 1994/34, entitled "Human rights in the administration of justice", the Special Rapporteur is called upon to continue to provide, wherever appropriate, specific recommendations concerning effective protection of human rights in the administration of justice, including proposals for concrete measures under the United Nations programme of advisory services and technical assistance in the field of human rights;

(d) In resolution 1994/42, entitled "Staff members of the United Nations and of the specialized agencies in detention", the Special Rapporteur is requested to examine, as appropriate, the cases involving the human rights of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant part of his report to the Secretary-General for inclusion in his report to the Commission on Human Rights;

(e) In resolution 1994/45, entitled "Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women", the Special Rapporteur is requested to include regularly and systematically in his report available information on human rights violations against women;

(f) In resolution 1994/46, entitled "Human rights and terrorism", the Special Rapporteur is urged to address, as appropriate, the consequences of acts, methods and practices of terrorist groups in his report to the Commission on Human Rights;

(g) In resolution 1994/53, entitled "Human rights and thematic procedures", the Special Rapporteur is requested, inter alia, to include in his report gender-disaggregated data and to address the characteristics and practice of violations of the right to life that are specifically or primarily directed against women, or to which women are particularly vulnerable;

(h) In resolution 1994/66, entitled "Human rights and mass exoduses", the Special Rapporteur is called upon to seek information, where appropriate, on problems resulting in mass exoduses of populations or impeding their voluntary return home and, where appropriate, to include such information, together with recommendations thereon, in his report to the Commission on Human Rights;

(i) In resolution 1994/67, entitled "Civil defence forces", the Special Rapporteur is invited to continue to pay due attention to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms;

(j) In resolution 1994/69, entitled "Advisory services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights", the Special Rapporteur is invited to continue to include in his recommendations, whenever appropriate, proposals for specific projects to be realized under the programme of advisory services;

(k) In resolution 1994/70, entitled "Cooperation with representatives of United Nations human rights bodies", the Special Rapporteur is requested to continue to take urgent steps to help prevent the occurrence of intimidation and reprisals against persons who seek to cooperate, or have cooperated with, United Nations human rights procedures, as well as relatives of victims of human rights violations, and to continue to include in his report to the Commission on Human Rights a reference to allegations of intimidation or reprisal, or of hampering access to United Nations human rights procedures, as well as an account of action he has taken in this regard;

(l) In resolution 1994/93, entitled "The plight of street children", the Special Rapporteur is called upon to pay particular attention to the plight of street children;

(m) In resolution 1994/95, entitled "World Conference on Human Rights", the Special Rapporteur is requested to include in his report, where appropriate, a section on the implementation of the recommendations contained in the Vienna Declaration and Programme of Action.

6. In examining and analysing the information brought to his attention, the Special Rapporteur has taken into consideration these requests by the Commission on Human Rights. Reference to the issues concerned will be made in chapter V, within the analysis of the Special Rapporteur's activities and the procedures applied in the framework of his mandate.

7. The "situations of extrajudicial, summary or arbitrary executions" which the Special Rapporteur is requested to examine comprise a variety of cases. All acts and omissions of State representatives that constitute a violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights (art. 3) and the International Covenant on Civil and Political Rights (art. 6 and also arts. 2, 4 (2), 26 and, particularly with regard to the death penalty, also arts. 14 and 15), as well as a number of other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies, fall within his mandate. They may be grouped according to the following categories:

(a) Violations of the right to life in connection with the death penalty;

(b) Deaths in custody;

(c) Deaths due to the use of force by law enforcement officials;

(d) Violations of the right to life during armed conflicts;

(e) Expulsion of persons to a country where their lives are in danger;

(f) Genocide;

(g) Breach of the obligation to investigate violations of the right to life;

(h) Breach of the obligation to provide compensation to victims of violations of the right to life.

8. A detailed analysis of these categories, together with a summary of the provisions contained in international instruments specifically relating to them, can be found in chapter II of the Special Rapporteur's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68). A list of the most important international instruments which constitute the legal framework for the work of the Special Rapporteur is contained in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, para. 10).

II. METHODS OF WORK

9. In resolution 1994/82, the Commission on Human Rights requested the Special Rapporteur "to respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened, or when such an execution has occurred" (para. 6). By the same resolution, the Commission commended the Special Rapporteur "for his methods of following up on communications with Governments and sources of information", and encouraged him "to enhance further his dialogue with Governments as well as to follow up on recommendations made in reports after visits to particular countries" (para. 7). Furthermore, the Commission welcomed "the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, as well as with medical and forensic experts", and [encouraged him] to continue efforts in this regard (para. 11).

10. Resolution 1994/53 of the Commission contains a number of provisions regarding visits and follow-up visits by thematic special rapporteurs: follow-up on recommendations made by them as well as on progress made by Governments with regard to their specific mandates; cooperation between thematic procedures and non-governmental organizations as well as between thematic special rapporteurs and working groups, relevant treaty monitoring bodies and country rapporteurs.

11. On the basis of these provisions, the Special Rapporteur has continued to transmit allegations of violations of the right to life received from credible sources to the Governments concerned. As in former years, such communications took the form of urgent appeals where violations of the right to life were said to be imminent or threatened. In such cases, the Special Rapporteur called on the authorities to adopt the necessary measures for the protection of the right to life and physical integrity of the persons at risk. Where it was reported to the Special Rapporteur that extrajudicial, summary or arbitrary executions had already taken place, these allegations were transmitted to the Governments in summarized form, and the Special Rapporteur asked to be provided with detailed information concerning the investigations carried out by the competent authorities to clarify the facts and identify those responsible, as well as steps taken to bring the authors of such violations to justice and sanction them, grant adequate compensation to the victims or their families and prevent the future recurrence of violations of the right to life. To the extent possible, the Special Rapporteur followed up on these allegations and the replies received from Governments which could not be considered as final. Visits, consultations with a number of other United Nations mechanisms for the protection of human rights, as well as activities to promote the mandate, also continued to form part of the Special Rapporteur's methods of work, a detailed account of which can be found in chapter III below.

12. In his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur described in detail the procedures established within the framework of the mandate on extrajudicial, summary or arbitrary executions, efforts undertaken to refine these procedures and increase their effectiveness, as well as difficulties encountered in the practice of their application (E/CN.4/1994/7, paras. 17-67). Issues concerning procedural matters will be discussed in chapter V which contains, *inter alia*, the Special Rapporteur's analysis of the developments of the working of his mandate during the past year.

III. ACTIVITIES

13. The following sections give an account of the activities carried out by the Special Rapporteur in the implementation of the mandate entrusted to him by the Commission on Human Rights.

A. Consultations

14. The Special Rapporteur visited Geneva from 23 February to 1 March 1994. On 2 March 1994, he presented his report to the Commission on Human Rights. The Special Rapporteur also visited Geneva from 24 May to 3 June 1994, 18 to 21 June 1994, 20 to 22 July 1994, 14 to 23 September 1994 and 21 to 25 November 1994 for consultations with the Secretariat. During his visits to Geneva, he met with the High Commissioner for Human Rights, a number of other special rapporteurs, representatives and members of working groups of the Commission on Human Rights. He also held meetings with representatives of Governments and non-governmental organizations, as well as with individuals who have themselves been victims of, or witnesses to, violations of the right to life. During 24 and 25 May 1994, the Special Rapporteur participated in the third special session of the Commission on Human Rights, dedicated to the situation in Rwanda.

15. Furthermore, from 30 May to 1 June 1994, the Special Rapporteur participated in the meeting of special rapporteurs/representatives/experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme of the Centre for Human Rights in Geneva, convened by the Assistant Secretary-General for Human Rights and chaired by the Chairman of the Working Group on Enforced or Involuntary Disappearances, with the participation of the High Commissioner for Human Rights.

B. Communications

16. The Special Rapporteur continued to receive numerous reports and allegations concerning his mandate. As in the past, some of them referred to the phenomenon of extrajudicial, summary or arbitrary executions in general; others contained particular cases of alleged extrajudicial, summary or arbitrary executions. This information was processed and allegations sent to the Governments concerned in accordance with the methods of work established within the framework of the mandate. The efforts made during 1993 to enhance follow-up with Governments and sources of information translated into an increased number of follow-up communications received during 1994. The Special Rapporteur continued his endeavour to follow up on the cases transmitted to Governments since he assumed his functions in June 1992.

17. In total, the Special Rapporteur transmitted to the Governments concerned allegations he had received concerning violations of the right to life of more than 3,000 persons in 65 countries. A total of 152 cases concerned alleged extrajudicial executions or death threats where the victims were minors, 9 of whom were said to be under 10 years of age, 10 street children; 118 cases concerned alleged violations of the right to life of women. 1/ More than 520 persons were said to have been killed or threatened with death for exercising their right to freedom of opinion and expression, peaceful assembly

and association. In 19 countries, members of indigenous groups or other ethnic, national, religious or linguistic minorities were said to have been victims of violations of the right to life.

Urgent appeals

18. Since 23 November 1993, the date of the finalization of his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur has sent 203 urgent appeals concerning more than 2,300 persons to the following 53 countries: Angola, Argentina, Bangladesh, Bosnia and Herzegovina, Brazil, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Colombia, Costa Rica, Cuba, Djibouti, Egypt, El Salvador, Ethiopia, Gabon, Guatemala, Haiti, Honduras, India, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Mexico, Myanmar, Nepal, Nigeria, Pakistan, Peru, Philippines, Portugal, Rwanda, Sierra Leone, Singapore, South Africa, Tajikistan, Togo, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Venezuela, Yemen and Zaire.

19. Pursuant to Commission on Human Rights resolution 1994/70, the Special Rapporteur sent urgent appeals to the Governments of Argentina, Colombia, Guatemala, Honduras, Peru and Rwanda on behalf of persons or organizations which had allegedly received death threats after availing themselves of United Nations procedures for the protection of human rights.

Other allegations

20. Allegations concerning the extrajudicial, summary or arbitrary execution of over 700 persons were transmitted to the following 45 countries: Afghanistan, Angola, Argentina, Bangladesh, Bolivia, Brazil, Cambodia, Cameroon, Chile, China, Colombia, Djibouti, Egypt, El Salvador, Ethiopia, Guatemala, Honduras, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Lebanon, Mali, Mexico, Morocco, Myanmar, Nepal, Niger, Nigeria, Pakistan, Peru, Philippines, Saudi Arabia, South Africa, Sri Lanka, Syrian Arab Republic, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Zaire.

21. The Special Rapporteur would like to thank all those who provided him with information. He wishes to express his particular appreciation and admiration for those individuals or organizations which carry out their activities for the defence of human rights and, in particular, the right to life, under difficult circumstances and often at great personal risk.

Communications received from Governments and follow-up

22. Since the finalization of his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur has received a large number of replies. The following Governments provided such replies concerning allegations transmitted to them:

(a) In 1994: Angola, Argentina, Bangladesh, Brazil, Burundi, Colombia, Costa Rica, Egypt, Gabon, Guatemala, India, Iran (Islamic Republic of), Iraq, Italy, Japan, Kazakhstan, Kuwait, Mali, Mexico, Myanmar, Nepal, Nigeria, Peru, Philippines, Saudi Arabia, Syrian Arab Republic, Togo, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uzbekistan, Venezuela and Zaire;

(b) In 1993: Angola, Argentina, Bangladesh, Brazil, Chile, China, Colombia, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, India, Kuwait, Malaysia, Mexico, Nicaragua, Pakistan, Peru, Philippines, Sri Lanka, Sudan, Turkey and Venezuela;

(c) In 1992: Angola, Bangladesh, Brazil, Guatemala, Mexico, India, Peru and Venezuela.

23. The Special Rapporteur wishes to thank these Governments for the information provided. Their willingness to cooperate with his mandate is much appreciated, and the Special Rapporteur hopes that the dialogue thus initiated will continue, in the common interest of the protection of the right to life.

24. In accordance with the procedures established, the contents of the replies received were sent to the sources of the allegations, some of which provided the Special Rapporteur with their comments and observations thereon. The Special Rapporteur also sent follow-up letters to a number of Governments from which he had received replies that could not be considered as final.

25. A number of Governments have not replied to allegations of extrajudicial, summary or arbitrary executions brought to their attention. For a detailed analysis of the responses of Governments to the allegations transmitted to them and the effectiveness of the follow-up procedures established within his mandate, the Special Rapporteur refers to chapter V below.

C. Visits

26. From 3 to 13 July 1994, the Special Rapporteur visited Indonesia and East Timor, after the Government of Indonesia extended an invitation to him to do so, pursuant to Commission on Human Rights resolution 1993/97. The Special Rapporteur's report on this visit, which includes his findings, conclusions and recommendations, was published in November 1994 (E/CN.4/1995/61/Add.1).

27. From 17 to 26 October 1994, the Special Rapporteur undertook a visit to Colombia with a view to examining the current situation of violations of the right to life and, particularly, to following up on the recommendations made by his predecessor as Special Rapporteur on Summary or arbitrary executions, Mr. S. Amos Wako, after his visit to Colombia in October 1989 (E/CN.4/1990/22 and Add.1). Given the affinity between problems relating to the right to life and the right to physical integrity, as well as the fact that both Special Rapporteurs had received invitations from the Government of Colombia to visit the country, the mission was carried out jointly with the Special Rapporteur on the question of torture, Mr. Nigel S. Rodley. Their joint report is presented to the Commission on Human Rights in a separate document (E/CN.4/1995/111).

28. At present, the Special Rapporteur is in possession of open invitations from the Governments of Algeria, Azerbaijan, Burundi, Gabon

and Sri Lanka. Both the visit to Burundi, scheduled for April 1994 and the visit to Azerbaijan, planned for the second half of August 1994, had to be postponed to a later date in view of the urgent situation in Rwanda, which forced the Special Rapporteur to review his mission schedule for 1994. For the visits to Algeria and Sri Lanka, the Special Rapporteur has not yet been in a position to suggest dates for a possible visit to the Governments concerned. With regard to a possible visit to Gabon, reference is made to paragraph 139 of the present report.

29. Consultations with the Government of India concerning a possible visit have not advanced since 1993. The Government of Bangladesh refused to extend an invitation to the Special Rapporteur, while the Government of Turkey, in 1992, agreed to the principle of a visit but has since eschewed all attempts by the Special Rapporteur to set concrete dates for such a visit.

30. No replies have as yet been received from the following Governments, which the Special Rapporteur had approached regarding the possibility of conducting a visit: China, Tajikistan and the United States of America.

31. For further details, reference is made to the corresponding country sections contained in the present report.

D. Cooperation with other United Nations procedures

32. The year 1994 saw a marked increase in cooperation and coordination between the different experts of the Commission on Human Rights. One of the major events in this regard was the meeting of special rapporteurs/representatives/experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme of the Centre for Human Rights held from 30 May to 1 June 1994 in Geneva. The Special Rapporteur very much welcomed this opportunity to meet his colleagues and discuss issues of common concern. The results of these consultations are contained in a report prepared by the Special Rapporteur on the question of torture, who acted as rapporteur of the meeting (E/CN.4/1995/5, annex).

33. The practice of joint missions, first instituted under the mandate of the Special Rapporteur on the situation of human rights in the former Yugoslavia in 1992, was continued in 1994. Unfortunately, the first such initiative planned for the month of April - a joint visit to Burundi and Rwanda with the Representative of the Secretary-General on internally displaced persons - had to be abandoned due to the outbreak of the armed conflict in Rwanda on 6 April 1994. However, two joint missions could take place during 1994.

34. From 10 to 20 June 1994, at the invitation of the Special Rapporteur on the situation of human rights in Rwanda, Mr. René Degni-Ségui, the Special Rapporteur participated in the first mission of this newly established mandate to Rwanda and neighbouring countries. The Special Rapporteur on the question of torture also took part in this visit. Due to the difficult situation then prevailing in Rwanda and the resulting logistical constraints affecting transport to, and accommodation in, Kigali, the mission was obliged to split. Thus, the Special Rapporteur accompanied Mr. Degni-Ségui to Bujumbura (Burundi) and Nairobi (Kenya), and then visited the refugee camp of

Benaco (United Republic of Tanzania) on behalf of the Special Rapporteur on the situation of human rights in Rwanda. The conclusions and recommendations resulting from this joint mission are contained in Mr. Degni-Ségui's first report to the Commission on Human Rights, presented on 29 July 1994 (E/CN.4/1995/7).

35. From 17 to 26 October 1994, the Special Rapporteur visited Colombia, together with the Special Rapporteur on the question of torture. It should be noted that this was the first joint mission of two thematic special rapporteurs. The Special Rapporteur feels that in a context such as the situation in Colombia, where violations of the right to life and the right to physical integrity are very much linked, the combined experience and expertise of the two mandates were most beneficial to the success of the mission.

36. Furthermore, during his visits to Geneva, the Special Rapporteur had the opportunity to exchange views with the High Commissioner for Human Rights, particularly on the situation in Rwanda and Burundi. As in former years, he held informal consultations with several other special rapporteurs and members of working groups of the Commission on Human Rights. Exchange of information also continued with the Committee on the Rights of the Child and other treaty bodies, particularly the Human Rights Committee, and with the United Nations High Commissioner for Refugees, concerning some specific cases of common interest. During his missions, the Special Rapporteur also benefited from the support and cooperation of the UNDP resident representatives in Bujumbura, Jakarta and Bogotá as well as the United Nations Rwanda Emergency Office (UNREO) in Nairobi.

37. The Special Rapporteur notes with regret that no reply was received to his inquiries about steps taken by those responsible for the United Nations peace-keeping operation in Somalia to investigate allegations of involvement of their personnel in extrajudicial killings of civilians. His attempts to establish contacts with the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development in Vienna were also unsuccessful. The Special Rapporteur will again approach these institutions and hopes that contacts may be made in the near future.

E. Other activities to promote the mandate

38. From 28 to 31 March 1994, the Special Rapporteur delivered a speech on human rights in Africa at a conference organized by the African-American Institute in Accra. On 24 May 1994, the Special Rapporteur participated in a special meeting on the situation in the countries of the Grands Lacs region (Rwanda, Burundi, Zaire), organized by the World Organization against Torture in Geneva. From 27 to 30 June 1994, the Special Rapporteur participated in a meeting on human rights and structural adjustment programmes in Ouagadougou. Following his mission to East Timor, on 15 July 1994 the Special Rapporteur visited Australia at the invitation of the Australian section of Amnesty International. Finally, on 1 November 1994, he gave a lecture on his mandate at Hunter College, City University of New York.

39. In September 1994, the Special Rapporteur was awarded the Human Rights Prize 1994 by the International Service for Human Rights in Geneva. In his address at the ceremony, the Special Rapporteur referred to a number of questions related to his work, in particular the serious limitations caused by the scarcity of human and material resources at his disposal.

40. The Special Rapporteur also contributed an article to a publication of the French section of Amnesty International, aimed at raising public awareness of the problem of extrajudicial, summary or arbitrary executions. In addition, the Special Rapporteur tried to explain the purpose and working of his mandate to a broader public in a number of press interviews.

IV. SITUATIONS

A. General

41. The following sections contain an overview of country-specific situations. They present a short summary of allegations of violations of the right to life as well as general information pertinent to his mandate received by the Special Rapporteur during the past year and an account of the communications sent, in response to these allegations, to the Governments concerned, as well as of replies received from Governments. As concerns the replies received from Governments, those referring to allegations transmitted by the Special Rapporteur in 1992 and 1993 are included under the heading "Follow-up", together with communications in which he asked the Governments concerned to provide details in addition to those contained in the replies received. Finally, where appropriate, the Special Rapporteur concludes the country sections with observations that contain specific comments, conclusions and recommendations.

42. The present report contains an account of all communications sent and government replies received by the Special Rapporteur between 23 November 1993 and 25 November 1994, with the exception of a reply from China which was received on 19 November 1993 but could not be translated before the closing date for the preparation of the Special Rapporteur's report to the Commission on Human Rights at its fiftieth session. It should be noted that, unless otherwise specified in the text, the dates of urgent appeals sent and communications received from Governments are given in parenthesis. During 1994, the Special Rapporteur sent letters containing allegations on two occasions, namely on 3 June and on 23 September 1994. Unless otherwise stated, follow-up letters were also sent on 23 September 1994.

43. Due to severe limitations on the length of the present report, the Special Rapporteur was compelled to shorten considerably this overview of information received and activities carried out for each specific country. In most cases, he could no longer present a summary of the cases he dealt with, but had to limit himself to listing the names of those on whose behalf he intervened. While he regrets this limitation, which inevitably entails a reduction of the information contained in the present report, the Special Rapporteur wishes to emphasize that full details on each of these cases can be obtained from the Secretariat.

B. Country situations

Afghanistan

44. During 1994, the Special Rapporteur received reports indicating that the armed conflict between different factions continued unabated, causing the death of more than 3,000 civilians during the first half of the year. However, he received only one case containing enough information to enable it to be transmitted to the Government. These allegations concerned the death of Mir Wais Jalil, BBC World Service journalist, after having been abducted in Kabul on 29 July 1994. By the time the present report was finalized, no reply had been received from the Government. With regard to an analysis of the

situation prevailing in Afghanistan, reference is made to the report of the Special Rapporteur on the situation of human rights in the country, Mr. Felix Ermacora (E/CN.4/1995/64).

Algeria

Information received and communications sent

45. During 1994, the Special Rapporteur received reports indicating that violations of the right to life continued on an alarming scale. Security forces were said to counter acts of violence by Islamist groups through repressive measures throughout the country. According to press reports, the number of death sentences handed down by Special Courts had reached 489 by mid-May. Six death sentences were said to have been carried out by that date. The Special Rapporteur has not received any allegations containing specific cases during the past year.

Follow-up

46. Further to his urgent appeal of 1 July 1993 (see E/CN.4/1994/7, para. 107), the Special Rapporteur, on 3 December 1993, sent a letter to the Government of Algeria expressing concern at a number of provisions contained in Decree No. 92-30 of 30 September 1992, in particular, an extension of the death penalty to offences previously punishable with life imprisonment; the Decree also contained a number of limitations with regard to defendants' rights, resulting in a lower standard of procedural rights for defendants in Special Court by comparison with ordinary courts. The Special Rapporteur also expressed concern with regard to restrictions on the full exercise of right to appeal in proceedings before Special Courts and the possibility that, under Decree No. 92-30, death sentences might be imposed on persons between 16 and 18 years of age.

47. On 8 February 1994, the Government replied to this letter, explaining that the exceptional limit of 12 days for garde-à-vue detention corresponded to the degree of gravity, amplitude and complexity inherent in terrorism cases. The Government pointed out that the right to appeal was fully guaranteed through the review by cassation, by which the Supreme Court could decide to refer the case to the same Special Court, but with a different composition, or to another Special Court. In such cases, new proceedings were started, allowing for the review of the facts by a different jurisdiction. The provision enabling Special Courts to sentence minors between 16 and 18 years of age to death has never been applied. It was pointed out that this provision had a deterrent character and was meant to warn young people. It should make them reflect thoroughly before joining the Islamic Salvation Front (FIS) and alert parents to exercise their authority to prevent their children from engaging in terrorism and subversion. Furthermore, the Government pointed out that death sentences handed down in absentia were subject to appeal, once the defendants were apprehended, and should therefore not be included in the number of death sentences handed down. Thus, as at 31 December 1993, 5,752 persons had been tried by Special Courts; the number of definitive death sentences handed down, i.e. with the defendants present, was 22.

Observations

48. The Special Rapporteur wishes to thank the Government for the information provided and their willingness to cooperate. However, his concerns regarding procedural shortcomings before the Special Courts persist, even if the number of executions actually carried out appears to be small. Similarly, the fact that the possibility of sentencing to death, and executing, minors exists under the law constitutes a breach of the prohibition of capital punishment for crimes committed by minors contained in article 6, paragraph 2, of the International Covenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child. The Special Rapporteur reiterates his appeal to the authorities to revise its legislation so as to make it conform to the pertinent international standards.

49. The Special Rapporteur is also deeply concerned at the continuing conflict and the large numbers of victims on both sides, in particular civilians. Reports of killings of numerous persons who expressed criticism at the ongoing violence, including teachers, journalists, lawyers and judges, are particularly disturbing. The Special Rapporteur wishes to emphasize that, even when confronting an armed opposition whose members very often show total disrespect for the right to life and the physical integrity of security forces and civilians, law enforcement personnel are bound by international law to respect fully the restrictions on the use of force and firearms as contained in a number of international instruments. The Special Rapporteur appeals to the Government to ensure this respect in practice. He also urges the authorities to conduct exhaustive and impartial investigations into all cases of excessive or arbitrary use of force, to bring those responsible to justice and punish them, and to grant adequate compensation to the families of the victims. Finally, the Special Rapporteur calls on the Government and the leaders of the FIS to continue efforts towards negotiations with a view to ending the armed confrontation and violations of human rights resulting therefrom.

Angola

Information received and communications sent

50. According to the information received, the armed conflict between the Government and the National Union for the Total Independence of Angola (UNITA) continued in 1994. However, the reports received contained only very few specific cases of alleged extrajudicial, summary or arbitrary executions. All of these cases were said to have occurred in 1993 in the city of Benguela and concerned the following seven persons: Pedro Katenguenha, Constantino Chitue, Pastor Agostinho Canjila, Joao Batista, Batista Limila, Dr. Belchior Rodrígues and Dr. Elías Chipindula. In addition, the Special Rapporteur sent an urgent appeal to the Government after receiving reports of an attack, allegedly by members of the police and the military, against Mfulumpinga N'Landu Victor, President of the Democratic Party for the Progress of the National Alliance of Angola, (6 July 1994).

Communications received

51. On 19 October 1994, the Government informed the Special Rapporteur that judicial inquiries had revealed that internal tensions within his own political party were a possible motive for the attack against Mfulumpinga N'Landu Victor.

Follow-up

52. On 24 October 1994, the Government provided a reply to allegations transmitted by the Special Rapporteur in 1992, 1993 and on 3 June 1994, informing him that in most of the cases it was not possible to carry out any investigations due to the situation of armed conflict which had affected, inter alia, the archives of the police and the courts. With regard to the allegations concerning the death of Dr. Elías Chipindula, the Government pointed out that he was alive and working at the Provincial Tribunal of Benguela.

Observations

53. The Special Rapporteur thanks the Government for the information provided. Reports about large-scale and widespread violations of human rights and humanitarian law entailing the death of large numbers of civilians, through deprivation of food or indiscriminate attacks, continued to be most worrying. The Special Rapporteur wishes to express his hope that the accord signed recently between the Government and UNITA will constitute a new beginning in the process towards peace and reconciliation in Angola, and calls on both parties to make every effort to ensure respect for the right to life and physical integrity.

Argentina

Communications sent

54. Three urgent appeals were sent to the Government after the Special Rapporteur had received reports of death threats against the following persons: Elena Mendoza, a lawyer working with the organization Abuelas de la Plaza de Mayo (Grandmothers of the Plaza de Mayo) (25 September 1994); Hebe de Bonafini, President of the organization Madres de la Plaza de Mayo (Mothers of the Plaza de Mayo) (13 October 1994); and Dr. Federico Alfredo Huber, a lawyer representing the family of a young engineer, Diego Rodríguez Laguens, allegedly killed by police officers while in custody in San Pedro, Jujuy, on 20 February 1994 (20 October 1994). Furthermore, the Special Rapporteur transmitted to the Government the case of Omar Octavio Carrasco, who reportedly disappeared and was found dead shortly after his induction into military service on 6 March 1994.

Communications received

55. The Government informed the Special Rapporteur that penal proceedings had been initiated with several charges including murder brought against 13 police officers in the case of Diego Rodríguez Laguens (8 June 1994). In a second reply dated 25 November 1994, the Government further reported that

judicial investigations were continuing. In the same letter, the Government stated that a court order was issued to the police to protect the home of Dr. Federico Huber, who was also given protection during his stay in the province of Jujuy, and that Elena Mendoza had not followed up an invitation by the Ministry of the Interior to bring complaints; she had also declined an offer of police protection. With regard to alleged threats against Hebe de Bonafini and other members of the Mothers of the Plaza de Mayo, the Government reported that no steps could be taken as no complaint had been made before any competent jurisdiction. Finally, the Government pointed out that judicial proceedings had been opened against two members of the military and two civilians in the case of the killing of Omar Octavio Carrasco.

Follow-up

56. The Government provided a reply to an urgent appeal sent by the Special Rapporteur on behalf of Hebe de Bonafini in August 1993, stating that no investigation into the case had been started as the alleged death threats had not been reported to the judicial authorities by Mrs. de Bonafini or her organization (4 February 1994). The Special Rapporteur transmitted the contents of both replies to the sources of the information. With regard to the case of Diego Rodríguez Laguens, he asked the Government in a letter dated 23 September 1994 for further information on the progress of the judicial proceedings and, in particular, the exact rank of the police officers involved and whether disciplinary sanctions had been imposed on any of them.

Observations

57. The Special Rapporteur thanks the Government of Argentina for information provided in reply to all the cases transmitted in 1994. The willingness of the authorities to cooperate with his mandate thus shown is much appreciated. However, he notes with concern the reports of death threats against human rights activists and lawyers seeking to clarify the circumstances of alleged human rights violations, in particular as concerns cases of disappearances during the years of military rule. The recurrent reports of death threats against Hebe de Bonafini and other members of the Mothers of the Plaza de Mayo are most disturbing. The Special Rapporteur urges the authorities once again to adopt all measures necessary for the protection of those whose life and physical integrity are at risk. He also recalls the obligation of all Governments under international law to carry out impartial and exhaustive investigations into all allegations of violations of the right to life, whether they be brought to the attention of the authorities by the victims themselves, their families or lawyers, or by a competent international organ such as the Special Rapporteur.

Azerbaijan

58. The Special Rapporteur was informed that the armed conflict between the armed forces of Azerbaijan and forces composed of Armenians fighting for self-determination in Nagorno Karabakh continued throughout 1994, despite attempts at negotiating an end to the fighting through cease-fire agreements. The Special Rapporteur also received reports of deaths in custody of persons held in prisons in Azerbaijan, allegedly as a consequence of ill-treatment. Some of them were said to have been sentenced to death earlier in trial

proceedings allegedly falling short of internationally recognized fair trial standards, particularly as regards the right to appeal and to seek clemency. The Special Rapporteur had transmitted two of these cases to the Government in 1992 and 1993, respectively. However, the information received in 1994 did not include detailed information on further cases to be brought to the attention of the authorities of Azerbaijan.

59. Concerned at the persistence and gravity of the allegations received, the Special Rapporteur inquired, on 31 January 1994, whether the Government would consider inviting him to carry out a visit to Azerbaijan. On 11 March 1994, the Government responded positively to this request and the visit was planned for the second half of August 1994. However, due to the developments of the situation in Rwanda, the Special Rapporteur had to revise his schedule of visits and was obliged to postpone his visit to Azerbaijan to a later date. He wishes to thank the Government for the invitation extended and hopes to be in a position to visit Azerbaijan in the near future.

Bangladesh

Information received and communications sent

60. During 1994, the Special Rapporteur continued to receive numerous reports indicating that human rights violations, including extrajudicial, summary or arbitrary executions, by members of the security forces of Bangladesh continued to occur in the Chittagong Hill Tracts despite negotiations between a government commission and the Jana Shanghati Samiti (People's Solidarity Association), a political organization representing the Jumma people, the indigenous inhabitants of the area. These negotiations started in November 1992, and the unilateral cease-fire declared in August 1992 by the Shanti Bahini, the armed wing of the JSS, was turned into a mutual cease-fire agreement which was extended at each round of negotiations. By 5 May 1994, seven rounds of dialogue had taken place. The Special Rapporteur was informed, however, that one of the central problems remained to be resolved: the attribution of land in the Chittagong Hill Tracts now occupied by Bengali settlers but traditionally occupied and claimed by the Jumma people.

61. The Special Rapporteur transmitted to the Government the case of Chandu Moni Chakma and 12 other Jumma people, reportedly killed on 17 November 1993 when soldiers and Bengali settlers attacked a student demonstration at Naniachar Thana, Rangamati. According to information received later, up to 100 persons were killed during this attack. An investigation into the case was reportedly carried out by a Government-appointed judge, but by September 1994 its results had not yet been made public.

62. The Special Rapporteur also sent an urgent appeal to the Government, calling on the authorities to provide the necessary protection to writer and journalist Taslima Nasreen, who had been forced into hiding by death threats from fundamentalist Islamic groups (6 July 1994).

Communications received

63. On 19 October 1994, the Government provided the Special Rapporteur with information concerning 6 of the 13 Jumma people killed at Naniachar, informing him that complaints had been filed on behalf of each of them and investigations were under way. The Government further informed the Special Rapporteur that each victim's family had been allotted an amount of money, warm clothes and food items. With regard to the remaining persons referred to in the Special Rapporteur's letter, the Government stated that three of the names did not appear to be correct and the remaining four had in fact not been involved in the killings at Naniachar.

Follow-up

64. In a letter to the Government dated 23 September 1994, the Special Rapporteur sought additional information with regard to a number of cases transmitted to the authorities in 1992 and 1993 to which replies had been provided but which did not elucidate all questions (see E/CN.4/1994/7, paras. 140-143). In particular, the Special Rapporteur asked to receive more detailed information about investigations carried out and reports published as a result thereof. In the same letter, the Special Rapporteur reiterated his interest in carrying out a visit to Bangladesh, first expressed in a letter to the Government on 29 July 1992. The Special Rapporteur pointed out that the replies provided by the Government had been contested by the source of the allegations, which reiterated its earlier allegations and claimed that the information supplied by the Government did not provide an accurate account of the circumstances. In addition, the authorities had not replied to the Special Rapporteur's very detailed follow-up questions formulated in his letter of 22 September 1993 (see E/CN.4/1994/7, para. 144). In this situation, an on-site visit would be the only possibility for the Special Rapporteur to find out which one of the contradicting versions presented corresponds to reality.

Observations

65. The Special Rapporteur thanks the Government for the information provided in its replies and hopes that the authorities may reconsider their refusal to invite him to visit Bangladesh. However, he notes with concern the continuing allegations of violations of the right to life and of the obligation to carry out full, independent investigations and render their results public. With regard to the killing of a large number of people reported to have taken place at Naniachar in November 1993, the pattern observed is similar to what happened after the massacre at Logang cluster village in 1992 (see E/CN.4/1993/46, paras. 116-117): an inquiry, headed by a Government-appointed judge, was initiated, but its results have not been made public nor is anyone known to have been held responsible for the killings. The Special Rapporteur urges the Government to fulfil its obligation under international law to clarify the circumstances of each alleged violation of the right to life with a view to identifying those responsible and bringing them to justice, and to take the appropriate measures to prevent similar acts from happening again in the future. This obligation also requires that the results of investigations be made public. Finally, the Special Rapporteur also calls on the parties to the negotiations concerning the settlement of

problems in the Chittagong Hill Tracts to make every effort so that these negotiations may progress and lead to a peaceful solution of the crisis.

Bolivia

66. The Special Rapporteur transmitted to the authorities the case of a Spanish citizen, Manuel Ramón Puchol Pastor, allegedly killed on 9 February 1994 while in custody of the Bolivian army at San Matias, department of Santa Cruz. An investigation commission was said to have been established and some of the soldiers involved were reportedly arrested. By the time the present report was finalized, no reply had been received from the Government of Bolivia.

Bosnia and Herzegovina

67. The Special Rapporteur sent an urgent appeal to the Government after being informed that Sretko Damjanovic and Borislav Herak were sentenced to death by a military court in Sarajevo, after being convicted of genocide and war crimes against civilians. During pre-trial detention and during the proceedings before the court, they were said to have suffered restrictions of access to their lawyers and of their right to prepare an adequate defence. They were also said to have been tortured during interrogations (10 March 1994). By the time the present report was finalized, no reply had been received from the Government. For an analysis of the human rights situation in Bosnia and Herzegovina, reference is made to the reports of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki (E/CN.4/1995/4, 10 and 57).

Brazil

Information received and communications sent

68. During 1994, the Special Rapporteur continued to receive reports of violence directed against street children. Several sources expressed concern that the number of abuses, including extrajudicial, summary or arbitrary executions, by members of the security forces, particularly the military police, has not decreased. Only very few of those responsible for human rights violations are brought to justice and held responsible. Killings in the context of land conflicts in rural areas were also reported to continue during the past year. Furthermore, the Special Rapporteur was also informed of a study indicating that acts of violence against indigenous people had doubled in 1993 as compared with 1992, including the killing of 16 Yanomami at Haximu (see E/CN.4/1994/7, paras. 154 and 158 (d)).

69. Four urgent appeals were sent to the Government. The Special Rapporteur called on the authorities to adopt all necessary measures to guarantee the protection of Fábio de Oliveira (Barao, 13) and 53 other street children who, together with two adults, had witnessed the extrajudicial execution of 7 street children by military police near the Candelaria church in Río de Janeiro in July 1993 (2 June 1994). He also expressed concern at reports of death threats against journalist Cesar Gomes Gama and other staff of the newspaper Clasificados e informacioes (CINFORM) and Adelmo Peixoto Hora Nunes, a military policeman, reportedly after they had published

information about the involvement of military police and other State authorities in the activities of a "death squad" in Aracaju, Sergipe (26 September and 13 October 1994). Fears were also expressed for the lives of a group of 500 landless rural workers and their families camped outside the Fazenda Mocambo (Mocambo Estate) in Vitoria da Conquista, Bahia, after an attack on 29 October 1994 in which two people, Manoel Bonfim Bastos and Zilda de Jesus Silva, died and six others were seriously wounded by a group of gunmen in which police officers were said to have participated (14 November 1994).

70. The Special Rapporteur also transmitted to the authorities the cases of street children Marcos José do Espirito Santo (17) and Hemisferio Peres Ferreira (16), reportedly killed by two military police agents on 29 November 1993 in Varzea Grande, Mato Grosso, and of Democlides Albuquerque Carneiro, member of the Maxcui indigenous group, allegedly killed while in police custody in Alto Alegria, Roraima, on 6 November 1993.

Communications received

71. In reply to the Special Rapporteur's urgent appeal of 26 September 1994 concerning alleged death threats against staff of the newspaper CINFORM, the Government informed the Special Rapporteur about the steps taken to ensure the lives and safety of the threatened persons (18 October 1994).

Follow-up

72. The Government provided the Special Rapporteur with a series of replies to allegations transmitted in 1992 and 1993, informing him that investigations had been opened into the killings of street children Ademir Silveira dos Santos et al., (E/CN.4/1994/7, para. 153 (a)) (26 November 1993 and 3 June 1994); street children Erivan José da Silva and José Fernando Almeida (E/CN.4/1993/46, para. 131) (30 November 1993); agricultural cooperative leader Joaci Rodrígues da Silva (E/CN.4/1994/7, para. 155 (b)) (5 January 1994); and trade union leader Arnaldo Dalcídio Ferreira (E/CN.4/1994/7, para. 155 (b)) (23 March 1994). In the case of Paulo Henrique da Silva (E/CN.4/1994/7, para. 155 (b)), the Government informed the Special Rapporteur that the inquiries had not yielded sufficient elements so as to indict any policeman for the crimes of homicide or bodily injuries followed by death (24 March 1994).

73. The competent institutions were reportedly ordered to provide protection to Archbishop Pedro Casaldaliga and Sister Cecilia Petrina da Carvalho (E/CN.4/1994/7, para. 153 (c)) (29 November 1993 and 3 January 1994). In addition, several communications from the Government concerned progress in the proceedings concerning the killing of seven street children near the Candelaria church in Río de Janeiro in July 1993. An indictment was returned on 28 June 1994 against four persons, one of them a lieutenant in the gendarmerie/military police and two other military policemen, who will be tried by the Tribunal of the Grand Jury (3 January 1994, 27 June 1994, 18 October 1994).

74. On 23 September 1994, the Special Rapporteur addressed a follow-up letter to the Government in which he sought information in addition to the elements

provided by the authorities in the aforementioned replies, as well as in communications received by the Special Rapporteur during the second half of 1993, on the current status of investigations opened and the measures adopted in practice to protect persons said to be under threat, as appropriate. In reply to this letter, the Government informed the Special Rapporteur in a communication of 8 November 1994 that the latest information available on the cases in question had been transmitted to the Special Rapporteur in the corresponding replies during 1993 and 1994.

Observations

75. The Special Rapporteur wishes to thank the authorities for their willingness to cooperate with his mandate, shown repeatedly over the past years. Their endeavours to provide information on the cases transmitted are much appreciated. Nevertheless, concerns persist at the allegations received and the Special Rapporteur encourages the Government to continue efforts towards more effective protection of street children and those participating in judicial proceedings as witnesses or in any other capacity. Initiatives aiming at subjecting the military police to civilian courts are most useful and should be pursued with vigour. In this context, the Special Rapporteur wishes to recall once again the importance of fulfilling the obligation under international law to investigate all allegations of violations of the right to life, with a view to clarifying them, identifying those responsible and bringing them to justice, preventing similar acts from happening again in the future and granting adequate compensation to the victims or their families.

Burundi

Information received and communications sent

76. The Special Rapporteur was informed of the results of inquiries into the violence following the attempted coup d'état by the armed forces on 21 October 1993, carried out by a commission of inquiry composed of several international human rights organizations. This investigation concluded that the majority of the military hierarchy of Burundi was involved in, or had not opposed, the assassination of President Melchior Ndadaye and other high-ranking government officials. The ensuing violence led to the death of approximately 50,000 persons. Although the massacres had reportedly abated by the end of 1993, the killing of several hundred persons was said to have taken place in 1994, both in Bujumbura and in the countryside. After President Cyprien Ntyamira, elected in January 1994 to succeed President Ndadaye, died in the attack against the plane of Rwandan President Juvénal Habyarimana on 6 April 1994, it was feared that the situation would explode again. However, according to the reports received, relative calm could be maintained. With regard to a detailed analysis of the human rights situation in Burundi, the Special Rapporteur wishes to refer to the report by the Secretary-General on the situation of human rights in the country (E/CN.4/1995/66) and the report by the Representative of the Secretary-General on internally displaced persons who visited Burundi in September 1994 (E/CN.4/1995/50/Add.2).

77. Three urgent appeals were sent to the Government in 1994: the Special Rapporteur expressed concern at the killing of some 50 civilians during the

months of January and February 1994 and more than 200 unarmed civilians, allegedly by members of the army, in the Kamenge area of Bujumbura on 6 March 1994 (10 March 1994). He urged the authorities once again to adopt all necessary measures to prevent acts of violence, allegedly due to disproportionate use of force, after receiving reports of further killings of civilians in Kamenge as well as two other districts of Bujumbura, Cibitoke and Kinama (25 March 1994). In addition, the Special Rapporteur sent an urgent appeal after being informed that a group of refugees from Rwanda, including Alphonse-Marie Nkubito, former Procurator General at the Appeals Court, were being held at Bujumbura airport to be sent to Bukavu, Zaire, where their lives were feared to be at risk due to the presence of elements of the Rwandan government forces (13 April 1994).

Communications received

78. On 11 May 1994, the Government replied to the Special Rapporteur's urgent appeal of 13 April 1994, informing him that Alphonse-Marie Nkubito had left Burundi for Brussels, while the remaining 186 refugees had been transported to Bukavu at their own request. In a letter dated 23 September 1994, the Special Rapporteur thanked the authorities for the information provided.

Observations

79. In view of the scale and gravity of violations of the right to life reported to have occurred in Burundi throughout 1993, particularly during the months of October and November, the Special Rapporteur had intended to carry out a visit to Burundi during the first half of 1994, together with the Representative of the Secretary-General on internally displaced persons. A request to this effect had been made to the Government on 17 December 1993 and an invitation to visit Burundi was extended by the authorities on 17 January 1994. On 24 January 1994, the two experts proposed that the visit should take place at the end of April. However, shortly thereafter, the Special Rapporteur was informed that a commission of inquiry had been established under the responsibility of the Special Representative of the Secretary-General on Burundi, with a mandate that overlapped to a large extent the one entrusted to the Special Rapporteur. Thus, the Special Rapporteur decided to await the results of the investigation carried out by the commission of inquiry and to postpone his visit to a later date. It should be noted, however, that, despite an attempt by the Special Rapporteur to establish contacts with the commission, he has not been informed of the outcome of their activities.

80. The Special Rapporteur continued to observe events in Burundi with concern. Indeed, information confirming the persistence of such violations could be obtained by the Special Rapporteur during the short visit to Bujumbura undertaken in June 1994 within the framework of the mandate of the Special Rapporteur on the situation of human rights in Rwanda, Mr. Degni-Ségui. The situation remains volatile despite the agreement between the Government and the opposition to share political power equally. The United Nations mechanisms in place in Burundi, such as the Special Representative of the Secretary-General or the staff members of the Centre for Human Rights providing advisory services and technical assistance, do not monitor, on a day-to-day basis, the human rights violations that occur in the

country. The Special Rapporteur believes that the situation in Burundi does warrant such monitoring and he has brought this concern to the attention of the High Commissioner for Human Rights.

Cambodia

81. Reports and allegations received by the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Cambodia. Such reports include extrajudicial executions by members of the security forces of persons suspected of having links with the Party of Democratic Kampuchea (PDK or Khmer Rouge), or traders allegedly abducted by military personnel, deprived of their belongings and then killed. Threats and harassment by government officials against the staff of newspapers that had published articles critical of the authorities were also reported. Furthermore, several sources have expressed concern at continuing acts of violence against ethnic Vietnamese Cambodians. According to the information received, the new Constitution of Cambodia restricts human rights guarantees to people of Khmer origin, thus excluding the ethnic Vietnamese minority. The Special Rapporteur received several reports of attacks against ethnic Vietnamese by members of the PDK. The authorities were said not to have taken any action to halt such attacks and protect those at risk.

82. The Special Rapporteur sent an urgent appeal to the Government calling on the authorities to adopt the necessary measures to protect ethnic Vietnamese after he had received reports of the killing of 13 persons, among them nine minors, in the province of Kandal on 9 April 1994. Two days later, soldiers of the Cambodian Armed Forces were said to have killed three inhabitants of Ban Teay village: Thi Phorn, Hen Mao and seven-year-old Thoeun Nab (26 April 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the existence of two clandestine detention centres in the province of Battambang, where, during 1993, members of the military allegedly killed 35 persons whom they had deprived of their belongings and detained. Another case transmitted to the authorities concerned the killing by military police of Hun Sokea in the context of a violent confrontation between security forces and squatters occupying an area of land in the region known as "Broken Jar Stream". To date, no reply has been received from the Government of Cambodia.

Observations

83. The Special Rapporteur notes with concern that the Government of Cambodia has not replied to any of his communications since he assumed his functions in June 1992. The Special Rapporteur regrets this lack of willingness to cooperate with his mandate and invites the authorities to review their position. He also calls on the Government to take the necessary steps so as to ensure full respect for the human rights of all people living in Cambodia, and particularly those belonging to minorities. In this context, he urges the authorities to conduct exhaustive and impartial investigations into all allegations of violations of the right to life, including those directed against members of the ethnic Vietnamese minority, identify those responsible and bring them to justice, grant adequate compensation to the victims or their families, and prevent the recurrence of such acts of violence. For an

in-depth analysis of the human rights situation in Cambodia, reference is made to the report of the Special Representative of the Secretary-General for Cambodia, Justice Michael Kirby (E/CN.4/1995/87).

Cameroon

84. Reports and allegations that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Cameroon. During the past year, opponents of President Paul Biya were said to have been subjected to imprisonment and beatings, as a consequence of which some were reported to have died. Allegedly, no one has been held responsible for these killings. Furthermore, the Special Rapporteur was informed of extrajudicial killings, in June 1993, of members of the Shua Arab community during military operations in the northern departments of Logone and Shari. Allegedly, the security forces were supporting the Kotoko community in a long-standing conflict with the Shua Arabs. After a peace agreement between the two communities in September 1993, renewed acts of violence against Shua Arabs were reported in early 1994.

85. The Special Rapporteur sent two urgent appeals to the Government. After the death in military custody, allegedly after torture, of four Shua Arabs (Malloum Eli, Harouna Djidda, Allakhou Mahmat and Issa Mahmat), fears had been expressed for the lives of at least 15 others arrested by the security forces in late January 1994 (16 February 1994). The Special Rapporteur urged the authorities once again to adopt effective measures for the protection of Shua Arabs after an attack by soldiers of the Cameroonian army against the village of Karena in which at least 55 persons, including 9 women and 35 children, had been killed (7 March 1994). In addition, the Special Rapporteur transmitted to the Government the case of Cyprian Tanwie Ndifor, reportedly tortured and killed while in the custody of the Gendarmerie at Bamenda on 15 December 1993. To date, the Government has not replied to any of these cases.

Central African Republic

86. The Special Rapporteur sent an urgent appeal to the Government after being informed that four gendarmes, Dieudonné Kalanga Belly, Antoine Metende, Alain-Isaac Gbalele and Boris Barnabé Wili Bona, were sentenced to death for murder by the Permanent Military Court of the Central African Republic. According to the information received, there is no appeal against verdicts of this court. Reportedly, those convicted may only seek review by cassation by the Supreme Court (17 November 1994).

Follow-up

87. The gendarmes Kalanga Belly, Metende and Gbalele were reportedly sentenced to death for having killed Dr. Claude Konjugo in 1993, the fourth, gendarme Wili Bona, for the murder of Hemine Yakite. Both cases had been transmitted to the authorities by the Special Rapporteur in 1993 (see E/CN.4/1994/7, paras. 187-188). No reply had been received from the Government to these allegations.

Chad

88. The Special Rapporteur continued to receive alarming reports of extrajudicial, summary or arbitrary executions of civilians by members of the Chadian army. According to the information received, the authorities did not take any steps to prevent such acts. On 26 August 1994, the Special Rapporteur sent an urgent appeal to the Government after receiving reports of the extrajudicial execution of more than 25 villagers in the Kaga district between 12 and 14 August 1994. The victims were said to have included at least two minors, Justin Helkom (15) and Raymond Ekoudjewa (16). According to the reports received, the killings were reprisal actions by the army after the death of five soldiers during armed confrontations between the security forces and the rebel Forces Armées pour la République Fédérale (Armed Forces for the Federal Republic, FARF). Fears were also expressed that the violence might spill over into the district of Logone. At the time the present report was finalized, no reply had been received from the Government.

Follow-up

89. In 1993, the Government had provided the Special Rapporteur with replies concerning some of the cases transmitted in 1992 and 1993 (see E/CN.4/1994/7, paras. 197-200). In accordance with the follow-up procedure established in the framework of his mandate, the Special Rapporteur submitted the contents of these replies to the sources of the allegations for comments. The latter forwarded further details regarding the cases in question and informed the Special Rapporteur that, contrary to what the Government had stated, no independent investigation was known to have been carried out in any of the cases. The Special Rapporteur addressed a second follow-up letter to the Government, expressing concern at this apparent contradiction in the information received, and requested the authorities to forward further, specific details concerning both the cases in question and the allegations he had transmitted to the Government in a letter on 24 September 1993 (see E/CN.4/1994/7, para. 196), and for which no replies had been received.

Observations

90. The reports and allegations received by the Special Rapporteur during the past years do not only give rise to deep concern at the persistence of extrajudicial, summary or arbitrary executions in Chad, but suggest the existence of a pattern of violations of the right to life by the security forces which appear to operate in virtually total impunity. The Special Rapporteur is particularly concerned at continuing reports of killings of members of ethnic minorities. He calls on the Government to ensure that security forces personnel fully respect the limitations and restrictions on the use of force and firearms contained in pertinent international instruments and to fulfil its obligation under international law to conduct exhaustive and impartial investigations into all allegations of violations of the right to life. Those responsible for extrajudicial, summary or arbitrary executions must be brought to justice and sanctioned. The Special Rapporteur also urges the Government to grant adequate compensation to the victims or the families.

Chile

91. The Special Rapporteur transmitted to the Government reports he had received according to which investigations into the killing, in 1976, by members of the military, of Carmelo Soria Espinosa, Spanish citizen and staff member of the United Nations Centre for Demography in Latin America, had been closed when the Supreme Court confirmed an amnesty granted to eight military officials by the military judiciary in late 1992. At the time the present report was finalized, no reply had been received from the Government.

Follow-up

92. On 4 January 1994, the Government provided the Special Rapporteur with a reply to his urgent appeal of 29 September 1993 concerning the killing of two persons during a demonstration in Santiago de Chile, informing him that investigations had been opened to clarify the circumstances and determine responsibilities. In reply to the Special Rapporteur's request for updated information on the progress of proceedings in cases transmitted to the Government during 1993 (see E/CN.4/1994/7, paras. 206-207), the Government informed him on 23 November 1994 that investigations into the death of three prisoners during an attempted escape continued to be in the preliminary phase. In another case concerning the killing of two persons during a demonstration by carabineros, the Supreme Court had decided a conflict of competence in favour of the military jurisdiction. In its sentence, the Supreme Court held that the three carabineros were carrying out acts in connection with their duties at the moment when they committed "common acts" which were offences falling within military jurisdiction.

Observations

93. The Special Rapporteur wishes to express his appreciation for the information provided by the Government and hopes to continue the dialogue initiated with the Chilean authorities. He would note, however, that "duty" should never be used as a justification for violations of human rights committed by the military; military personnel receiving orders the carrying out of which would entail such violations have the right to disobey. Military tribunals, particularly when composed of military officers within the command structure of the security forces, very often lack the independence and impartiality required under international law. Military jurisdiction over human rights violations committed by members of the security forces very often results in impunity. In this context, reports of an amnesty granted by the Chilean military judiciary to army officers accused of an extrajudicial, summary or arbitrary execution are particularly disturbing. The Special Rapporteur wishes to express deep concern and calls on the authorities to enact legislative reforms allowing for such cases to be treated by civilian tribunals.

China

Information received and communications sent

94. As in former years, the Special Rapporteur received reports and allegations referring to the extensive use of the death penalty, imposed

after proceedings which were said to fall short of internationally recognized fair trial standards. One source recorded at least 2,564 death sentences during 1993. In at least 1,419 of these cases the death sentence was said to have been carried out. The highest number of capital sentences was registered during the month of September 1993: at least 570 people were reported to have been sentenced to death and more than 373 executed. According to the information received, this may have been due partly to an anti-corruption campaign launched by the authorities on a nation-wide basis during the second half of August. The concerns expressed by several observers remain the same as in the past: inter alia, the wide scope of capital offences and increase in the number of crimes punishable by death under recent legislation, the possibility of imposing death sentences on persons between 16 and 18 years of age, restrictions in the right to an adequate defence and the right to appeal. Reference is made to a more detailed description of these allegations in the Special Rapporteur's report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 209-215).

95. The Special Rapporteur transmitted to the Government allegations he had received concerning the killing of 24 Taiwanese tourists and 8 Chinese nationals during a boat ride on Qiandao Lake in Chunan, Zheijan province, on 31 March 1994, allegedly with the involvement of Chinese authorities. Three unidentified men were reportedly sentenced to death and executed shortly afterwards, convicted in a trial which lasted only 48 hours. The Special Rapporteur also transmitted to the authorities the case of Phuntsong Yangki, who was said to have died on 4 February 1994 at the police hospital in Lhasa, allegedly after having been denied proper medical treatment at Drapchi prison. At the time the present report was finalized, no reply had been received from the Government.

Follow-up

96. On 19 November 1993, the Government forwarded a reply concerning one case of alleged extrajudicial, summary or arbitrary execution transmitted by the Special Rapporteur in 1993, informing him that one person, Lai Manping, had died of a pneumonia-related heart disease, and the other was beaten to death by at least three persons who had been brought to justice and sentenced to prison terms, in accordance with the law.

97. On 26 January 1994, the Government provided the Special Rapporteur with information concerning the cases of death sentences transmitted to the authorities in 1993 (see E/CN.4/1994/7, para. 216). All but one of the persons concerned were executed shortly after having been sentenced to death for theft and/or robbery. The Government replied to the Special Rapporteur's specific concerns with regard to the legislation and practice of capital punishment in China, assuring him that the pertinent provisions in the Chinese criminal law, the Code of Criminal Procedure and the Organic Law of the People's Courts contained strict controls on the application of the death penalty, safeguarded the defendants' right to defence and appeal and were consistent with article 6 of the International Covenant on Civil and Political Rights. The Government stated that China's most recent penal legislation had actually reduced the number of clauses and offences liable to the death penalty and that the death penalty was used less and less often. As regards the imposition of death sentences on minors, the Special Rapporteur was

informed that, in judicial practice, the overwhelming majority of offenders sentenced to death with a two-year suspension had their sentences reduced at the end of the two years, and that the people's courts were especially cautious about sentencing minors between 16 and 18 years of age to death with a two-year suspension. It was further stated that, in judicial practice, lawyers were always given ample time to prepare their case. Defending lawyers were granted access to all materials related to the case, and the accused's right to defence was fully granted. The right to appeal, too, was guaranteed.

98. On 23 September 1994, the Special Rapporteur addressed a follow-up letter to the Government, thanking the authorities for the information provided as summarized above and informing them that, in accordance with the procedure established within the framework of his mandate, the contents of the reply had been transmitted to the sources of the allegations for comments and observations. In the same letter, the Special Rapporteur asked the authorities to provide him with additional details on the two cases mentioned above in paragraph 95.

Observations

99. The Special Rapporteur wishes to thank the Government for the information provided in response to his inquiries regarding the legislation and practice of capital punishment in the People's Republic of China. The willingness of the authorities to cooperate with his mandate is much appreciated. However, the Special Rapporteur remains concerned at the recurrence of reports of violations of the right to life. In view of the persistent contradiction between the numerous allegations received from credible sources and the information provided by the authorities, the Special Rapporteur would like to reiterate his interest in visiting China to study in situ questions relating to capital punishment in China. The Government has not yet replied to the Special Rapporteur's inquiry, first forwarded to them in November 1992 and repeated in September 1993 and September 1994.

Colombia

100. From 17 to 26 October 1994, the Special Rapporteur visited Colombia, together with the Special Rapporteur on the question of torture, to examine violations of the right to life and physical integrity in that country. The findings, conclusions and recommendations of the Special Rapporteurs are contained in their joint report to the Commission on Human Rights (E/CN.4/1995/111). The following paragraphs contain an account of the cases transmitted to the Government in 1994 as well as follow-up correspondence concerning earlier allegations.

Communications sent

101. The Special Rapporteur transmitted to the authorities a large number of allegations he had received concerning violations of the right to life in Colombia. During 1994, the Special Rapporteur sent 40 urgent appeals to the Government. This is the highest number sent to a single Government in the framework of the mandate on extrajudicial, summary or arbitrary executions during one year.

102. The Special Rapporteur urged the authorities to adopt all necessary measures to protect the lives and physical integrity of the following persons said to be under death threat from, unless stated otherwise, members of the security forces:

(a) Gilberto Vieira and nine other leading members of the political opposition parties Unión Patriótica (Patriotic Union, UP) and Partido Comunista de Colombia (Communist Party of Colombia, PCC), after the extrajudicial killing of José Miller Chacón Penna, Secretary of the PCC (14 January 1994); UP activists Josué Giraldo Cardona, Pedro Malagón, Nelson Viloria and Jamis Ricardo Barrera of Villavicencio, after the extrajudicial killing of Evaristo Amaya Morales, former personero municipal and candidate for the position of mayor of Villavicencio, on 24 February 1994, and an attack against Pedro Malagón on 1 March 1994 (21 March 1994); UP counsellor Oscar Salazar, whose name was said to be included in a list held by the paramilitary group "Los Masetos", after another person included in this list, Ubesio Gómez, was reportedly found hanging from a tree near Turbio (14 April 1994); Aída Abella, leading member of UP, after the assassination of PCC senator Manuel Cepeda Vargas (12 August 1994); 28 persons including Hernán Motta Motta, Aída Abella and other leading members of UP and PCC, threatened by the paramilitary group Muerte a Comunistas y Guerrilleros (Death to Communists and Guerrilleros, MACOGUER) (1 September 1994); the family García-Mallorca Villareal, after the killing of UP activists Gabriel Ribón and Eliécer Avila, as well as Luis Pérez and Amantine Villareal (16 September 1994);

(b) Trade unionists Wilson Monsalvo Navarro and Elmer Charris Alvarez, after the assassination of trade unionist Eudaldo Sierra Caballero (7 February 1994); Urbano Barreto Arenas and eight other members of the executive committee of the Teacher's Union of Arauca (ASEDAR), after the killing of teacher Juan Carlos Parales and attacks against Elbano Antonio Rojas and Luis Ernesto Goyaneche (19 April 1994); trade unionists Hector Enrique Herrera, after the assassination of Eliécer Ojeda Jaime, trade union leader in Ocaña, and an attack against another trade union leader, Cristóbal Navarro (2 June 1994); members of trade unions in Medellín, after the killing of trade unionists Luis Efrén Correa, Jairo de León Agudelo and Guillermo Marín (15 August 1994); 18 leading members of different trade unions allegedly threatened by the paramilitary group Colombia sin guerrillas (Colombia without guerrillas, COLSINGUE) (1 September 1994); trade union leader Luis Hernán Cobo (1 September 1994); trade union leader Belisario Restrepo, after the killing of trade unionist Hugo Zapata (4 October 1994); trade unionist and community activist Luis David Rodríguez Pérez, of Saravena (13 October 1994); trade unionists Olga Matilde Ortiz Solano, Ruth Rueda and Luis Carlos Acero (31 October 1994); trade unionists and political activists Edgar Riaño and others, after the assassination of trade union leader Hernando Cuadros (31 October 1994);

(c) Human rights lawyer Dr. Rafael Barrios Mendívil (18 March 1994); staff and residents of the Albergue campesino of Barrancabermeja (25 March 1994); priest and human rights activist Ricardo Mateus Duarte (21 April 1994); human rights lawyer Carlos Alberto Ruiz (8 August 1994); Hernando Valencia Villa, Procurador Delegado para los Derechos Humanos, accused by a member of the Senate of being a supporter of the guerrillas

(29 September 1994); Jeanette Bautista and Gloria Herney Galindez, President and Secretary-General of the Asociación de Familiares de Detenidos-Desaparecidos (Association of Relatives of Detainees-Disappeared, ASFADDES) (29 September 1994); Padre Gustavo Suárez, of Sogamoso, threatened by COLSINGUE (31 October 1994);

(d) Community activists including Sixto Pacheco, after the killing of Erminio Sepúlveda Sarabia, member of the Community Action Movement of Aguachica (7 February 1994); municipal counsellor Paulino Velandia Barón of Sogamoso and his family, as well as Fanny and William Correa, after the extrajudicial execution of Edgar Suescún and his daughter Sandra Correa in their presence (23 February 1994); community activist James Picón Torres, after the killing of David Reyes Castro in Pailitas (6 July 1994); community leader Julio Ramón Olivera Gracia of Sampués and his secretary Marina Salas, after an attack against the former and the assassination of community activist Tomás Vega (8 August 1994);

(e) The inhabitants of Minas, San Martín, after indiscriminate killings, allegedly by paramilitary groups, of José del Carmen Ruíz and five other villagers, and the people living in Norean, Aguachica, after the killing of civilians Adriano Portillo, Javier Contreras Barón and Alvaro Botello during an armed confrontation between guerrilla and security forces, who subsequently threatened the population (10 August 1994); the inhabitants of the municipality of Betulia, Santander, threatened by paramilitary groups with death if they did not leave their homes in areas needed for the construction of a paramilitary base (18 August 1994); María Magdalena Rodríguez and her small children as well as six other residents of Puerto Nuevo Ite, Yondó (23 August 1994); residents of the region around La Magdalena, Buga, after the assassination by COLSINGUE of Marcos Tautiva, Omar Valbuena and Miguel Ospina (23 August 1994); inhabitants of El Paramo, after the assassination, allegedly by paramilitary groups, of Lorgio Antonio García (31 October 1994); Ana Ilba Donado and Pedro Caldera, after the killing of community leader Lucas Sepúlveda, José Cayetano Sepúlveda and Luis Antonio Villegas, allegedly by members of the Mobile Brigades and paramilitary forces (17 November 1994);

(f) Severo Rubiano Cruz, after filing complaints against members of the armed forces for killing his son José Severo Rubiano Cruz (1 February 1994); Adelaída Sierra Avilés and her four young children, after her husband had been detained and accused of rebellion in Puerto Inirida, Arauca (21 March 1994); Luz Myriam Iglesias and Leonardo Marroquín Vargas, who had reportedly witnessed the killing of their eight-year-old son Gustavo Humberto Marroquín Iglesias by military in Ibagué, and journalist Alvaro Martínez Pinzón who had broadcast information about the killing in a press communiqué (19 April 1994); Isabel Cristina Rincón Bravo, for attempting to clarify the assassination, allegedly by police, of her husband Henry Humberto Molina in 1992 (13 June 1994); Luis Alirio Rodríguez and his wife Celina Franco, allegedly threatened by members of the Unidad Especial Anti-Secuestros (Special Anti-Kidnapping Unit, UNASE) (15 August 1994); members of the family Ardila Piña, after the killing of Edwin Castillo Piña, his uncle Argelio Piña and his aunt Custodia Ardelia de Piña, allegedly accused of being collaborators of the guerrilla (30 September 1994);

(g) Teófila Roja, President of the Regional Indigenous Council of Tolima, and her family, after the assassination of her colleague Yesid Bocanegra Martínez and the attempted killing of Omar Mendoza, Vice-President of the Council (2 June 1994); members of the Regional Indigenous Council of Tolima, after the killing of Council member Julio Cadena Ducuara (26 September 1994).

The Special Rapporteur asked to be provided with information on the measures taken with a view to the protection of these persons, as well as on investigations carried out to clarify the circumstances of those said to be killed, identify those responsible, bring them to justice and grant compensation to the families of the victims.

103. In addition, the Special Rapporteur transmitted to the authorities allegations he had received concerning the extrajudicial, summary or arbitrary execution of the following 36 persons: Marco Tulio Farigua; Luis Antonio Enciso, Luz Amelia Enciso and Manuel Guillermo Enciso; Gilberto Claro Lozano; Zenu indigenous leaders Porfirio Ayala Mendoza, Héctor Aquiles Malo Vergara, Luis Arturo Lucas Polo and their driver César Mendoza Cruz; Laureano Restrepo Rodríguez; Nicolás Eliécer Barrios Chávez; street children Javier González (16), Jairo Murcia (14) and "Asprilla" (12); Alfonso Cardona, Favio Cardona, Carlos Cardona and a non-identified person employed in the Cardona household; Rafael Quintero, Diana Argote, Bertilda Mena and two unidentified persons; Nelson Durán Chinchilla, Manuel Galarcio and Rafaél Rojas; Benjamín Durán; Alba Inés Flores Cardozo; Julio Edgar Galves Quimbay and Enan Rafaél Lora Mendoza; Zoraida Camargo Cáceres; Ramiro Guzmán Martínez (17); Laureano Iñampué; Benjamín Santos; Isidro Mercado Jiménez; and Manuel Serafín Guerrero.

104. The following allegations transmitted by the Special Rapporteur during the past year concerned two particularly grave instances of violations of the right to life: the massacre at Ríofrío, where the security forces, together with paramilitary groups, were said to have killed Miguel Ladino and 12 other residents in October 1993; and the massacre at Puerto Lleras, in which 10 fishermen were said to have been killed by members of the Colombian army. Both instances are referred to in the report on the Special Rapporteur's visit to Colombia in October 1994. For all cases transmitted, the Special Rapporteur asked to be provided with information concerning the investigations into these killings.

Communications received

105. The Government of Colombia provided the Special Rapporteur with replies to a number of these cases. Consultations took place between different State institutions and leaders of the opposition parties UP and PCC with a view to providing them with protection (26 January 1994). The Government further informed the Special Rapporteur that Aída Abella had refused to file a complaint concerning the death threats against her and rejected protection from the Departamento Administrativo de Seguridad (DAS), while other UP and PCC leaders had been provided with personal security (17 February 1994). In a communiqué of 11 August 1994, the Government expressed its deep concern at the killing, on 9 August 1994, of PCC senator Manuel Cepeda Vargas and pointed out that he and other leading members of the UP and PCC had rejected escorts from

DAS and the National Police and had not reported any death threats against them to the competent authorities. Due to this lack of cooperation, a special investigative team, which the Government had offered to investigate the threats, could not be set up. The Government further informed the Special Rapporteur that UP and PCC had not provided any evidence to sustain the allegations that a plan to eliminate them existed within the military. In the framework of a special protection programme, seven persons trusted by the leaders of UP and PCC were provided to them by DAS to act as personal guards. The Government further stated that investigations were under way to identify those responsible for the killing of Manuel Cepeda Vargas. On 24 August 1994, the Government informed the Special Rapporteur that five persons suspected of being involved in the killing of the senator had been arrested on 23 August 1994. Different protection measures were reported to have been taken to provide for the security of eight leading members of the UP and PCC (29 September 1994).

106. The Government also told the Special Rapporteur that information had been sought from the competent organs concerning investigations and/or measures of protection solicited with regard to the following cases: the killing of José Severo Rubiano Cruz, whose case was transferred to the military courts for preliminary investigations against army personnel, and threats against his father José Rubiano Cruz (3 February 1994 and 9 March 1994); the killing of trade unionists Wilson Monsalvo Navarro, Elmer Charris Alvarez, Eudaldo Sierra Caballero and community activist Erminso Sepúlveda Saravia, as well as death threats against Sixto Pacheco (1 March 1994); threats against human rights lawyer Rafaél Barrios Mendívil and other members of his organization, the Colectivo de Abogados "José Alvear Restrepo" (16 June 1994); the killing of Gustavo Humberto Marroquín Iglesias and measures solicited from the competent organs for the protection of his parents Leonardo Marroquín Vargas and Luz Myriam Iglesias, as well as journalist Alvaro Martínez Pinzón (6 September 1994); the death of Eliécer Ojeda Jaime and death threats against Héctor Enrique Herrera and Cristóbal Navarro (6 September 1994); the killing of Tomás Vega and death threats against Julio Ramón Olivera Gracia, Marina Salas and Carlos Alberto Ruíz (25 October 1994); threats against Hernando Valencia Villa (18 and 25 October 1994). In the case of Ubencio (not Ubesio) Gómez, the military courts were investigating his disappearance and killing, as it had been established that he died during a confrontation between the guerrillas and the National Army (15 November 1994). With regard to attacks and threats against teachers belonging to ASEDAR, proceedings were under way against a guerrilla commander for the killing of Juan Carlos Parales, as well as into the alleged attack against Elbano Antonio Rojas and threats against Urbano Barreto Arenas. After the attack, Elbano Antonio Rojas was granted the status of a person under threat by the Comité Especial de Amenazas (Special Threats Committee) of the Department of Arauca. The same status had been conferred upon Luis Ernesto Goyeneche, who nevertheless decided to stay in Saravena, where he later received death threats (15 November 1994).

107. In addition, the Government informed the Special Rapporteur that 18 members of the Pedro Nel Ospina Batallion of the Colombian army received sentences of between 6 and 20 years' imprisonment for the killing of five civilians from the municipalities of Yarumal and Taraza, who had been taken into custody for minor offences in early 1992 (11 July 1994).

On 8 November 1994, the Government transmitted information concerning a rocket attack carried out by guerrillas against a convoy of police vehicles. Eleven policemen were killed, as well as two high school students travelling on a school bus that was passing by at the time of the attack.

Follow-up

108. The replies received from the Government were transmitted to the sources of information. During his visit to Colombia, the Special Rapporteur had the opportunity to meet with several persons reportedly under death threats, including representatives of human rights organizations, trade unions and political opposition parties, as well as witnesses to violations of the right to life and family members of victims. He will follow up on these cases with the Government during the coming months.

109. As regards cases transmitted to the Government in 1992 and 1993, only one reply was received from the authorities, who informed the Special Rapporteur that the Sala Penal del Tribunal Superior de Distrito Judicial de Santafé de Bogotá had denied the acción de tutela requested to prevent the dissemination, by the television station Q.A.P., of a list established by the security forces allegedly containing the names of some 150 people said to be collaborators of the guerrillas, on the grounds that no evidence as to the existence of this list could be obtained (18 October 1994). No reply was received to a letter of 22 September 1993 in which the Special Rapporteur had sought clarifications and further details on some of these cases.

Observations

110. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government on repeated occasions during the past year, and most clearly during his visit to Colombia in October 1994. The Special Rapporteur was impressed by the frankness of the representatives of the Government he met during the mission. He has noted with satisfaction the various projects and initiatives planned by the new administration under President Ernesto Samper Pizano aimed at increased protection of human rights in Colombia, and encourages the Government to continue its efforts in this regard. Nevertheless, the Special Rapporteur remains concerned at the level of violence and the scale of human rights violations, including extrajudicial, summary or arbitrary executions, that continue to occur in Colombia. Human rights violations in the context of counter-insurgency activities, violent repression of political dissent and social protest, and urban violence directed mainly against marginalized sectors of the population are some of the principal problems. They are perpetuated by the lack of functioning of the administration of justice and its consequence, almost absolute impunity for violators of human rights. The high rate of common crime, drug trafficking and widespread poverty are factors that also contribute to the climate of violence prevailing in Colombia. A detailed analysis of these problems, together with a number of recommendations for possible improvement, can be found in the report on the visit to Colombia.

111. As in former years, Colombia has been among the countries where the Special Rapporteur had to intervene most frequently in response to allegations of death threats. Forty urgent appeals have been sent since the end of

November 1994, the most for any single country. It should be noted that the vast majority of reports of death threats refer to human rights activists, lawyers, trade unionists and members of political opposition parties. The Special Rapporteur feels that unequivocal public recognition of the legitimacy of political dissent and social protest, and of activities aimed at the protection of human rights, as well as the elucidation of human rights violations, on the part of the Government would be a signal to those persons who continue to regard protesters as collaborators or auxiliaries of the guerrillas, and thus as "internal enemy". In view of the fact that very often the victims of threats and attacks perceive members of the security forces or the DAS as the authors, it is not surprising that they are reluctant to avail themselves of protection offered by these institutions. Efforts to solve this apparent deadlock by establishing funds from which protection by persons enjoying the full confidence of those they are supposed to protect could be financed, are greatly encouraged.

Costa Rica

112. The Special Rapporteur sent an urgent appeal to the Government expressing concern at allegations of the indiscriminate use of force against demonstrators after receiving reports according to which members of the Guardia Civil y Rural had opened fire indiscriminately against participants in a demonstration at Sarapiquí on 13 May 1994 (2 June 1994). The Government replied on 8 July 1994, informing the Special Rapporteur that the events of 13 May followed several days of confrontation reportedly in the context of a labour conflict, during which armed individuals erected road barricades in front of the administrative offices of a banana company. When the security forces attempted to implement a court order to remove the barricades, they were attacked with stones, machetes, molotov cocktails, knives, etc. and had to resort to the use of force to defend themselves.

Cuba

113. The Special Rapporteur sent an urgent appeal to the Government on behalf of human rights activist Francisco Chaviano González, whose life was feared to be in danger after an attack against his residence (18 March 1994). At the time the present report was finalized, no reply had been received from the Government.

Follow-up

114. A reply was received from the Government on 7 February 1994, providing information on five of the cases transmitted by the Special Rapporteur in 1993 (see E/CN.4/1994/7, para. 243). The Government informed the Special Rapporteur that the person responsible for the killing of Orelvis Martínez Limonta was sentenced to 18 years' imprisonment. With regard to the remaining cases, the allegations were said to be unfounded: two persons reportedly died of natural causes; one was alive and serving his prison sentence; one could not be identified at all, while the two remaining cases were still under investigation. The Government also pointed out that the exhaustion of internal remedies to clarify cases of alleged extrajudicial, summary or arbitrary executions should be a condition for the admissibility of such allegations by the Special Rapporteur.

115. In a follow-up letter to the Government on 23 September 1994, the Special Rapporteur thanked the authorities for the information provided and inquired whether the investigations into the two outstanding cases had yielded any results. The Special Rapporteur also explained his position that the exhaustion of internal remedies was not a prerequisite for him to take action in a particular case (see also E/CN.4/1993/46, paras. 20-25). For a more detailed analysis of the human rights situation in Cuba, reference is made to the report of Special Rapporteur, Mr. Johan C. Groth (E/CN.4/1995/52).

Djibouti

116. During 1994, the Special Rapporteur continued to receive reports and allegations of human rights violations, including extrajudicial, summary or arbitrary executions, in the context of the armed conflict between government forces and the Front pour la restauration de l'unité et de la démocratie (Front for the Restoration of Unity and Democracy, FRUD) since July 1991. Human rights violations, whose principal victims were said to be members of the Afar ethnic group regarded by the security forces as supporters of the FRUD, are said to have increased during periods of intensified fighting in August and September 1993 and during March 1994, when the Government reportedly launched an offensive against the FRUD in the north of the country. Acts of violence by members of the Force d'Action Rapide (Quick Action Force) of the armed forces were also reported against displaced people, most of them members of the Afar community, in the Ariba suburb of the capital Djibouti during the month of June 1994.

117. The Special Rapporteur sent two urgent appeals to the Government. He expressed concern at the alleged extrajudicial execution on 31 December 1993, by soldiers of the Djibouti army, of Ali Balla Youssouf and six other villagers in the Day district and the killing of Mohamed Adoyta Ewad and his family at Tadjourah on 8 January 1994, and urged the authorities to adopt all necessary measures to protect Hamadou Hebano Hamadou and six other persons from the Day district whose lives were said to be in danger due to torture at the police stations at Randa and Tadjourah (17 January 1994). The Special Rapporteur again called on the Government to take effective steps to prevent further acts of violence after reports were received of the extrajudicial execution of Ahmed Nouho Bari and at least 19 other Afar civilians of the Malba and Oueima regions in northern Djibouti by members of the security forces between 3 and 10 March 1994 (18 March 1994). In addition, the Special Rapporteur transmitted to the Government the cases of Fatouma Mohamed Ali and Nasser Mohammed Youssouf, who were said to have been killed, together with at least two other, unidentified persons, during demonstrations at Ariba in early June 1994. To date, no reply has been received from the Government.

Ecuador

Follow-up

118. On 14 January 1994, the Government of Ecuador provided the Special Rapporteur with information concerning the cases of Luis Olmedo Aguilera López and three brothers Cañola, transmitted to the authorities in 1993, informing him that investigations had revealed that the former had died of natural causes, while the case of the latter three was the subject of judicial

proceedings before the Second Criminal Court. On 23 September 1994, the Special Rapporteur sent a follow-up letter to the Government, thanking the authorities for the information provided and asking for more details regarding the autopsy report of Luis Olmedo Aguilera López, which had indicated that the body showed marks of traumatic injuries, and the progress of the judicial proceedings in the case of the Cañola brothers.

Egypt

Information received and communications sent

119. During 1994, the Special Rapporteur continued to receive reports of death sentences imposed by military courts. Since Law No. 97 of 1992, which provided for the trial of those accused of "terrorism" before military courts, came into force in October 1992, 56 death sentences were said to have been handed down, 40 of which were reportedly carried out by August 1994. The main concerns with regard to the trials before military courts were expressed repeatedly by several sources: lack of independence and impartiality on the part of the judges; restrictions in the time available for the preparation of the defence and in the right to appeal. Extrajudicial, summary or arbitrary executions as a result of excessive use of force by the security forces were also reported. Furthermore, the Special Rapporteur was informed of deaths in custody, allegedly as a result of torture, at premises of the police and the State Security Investigations Department (SSI). Concern was also expressed at increasing repression directed against lawyers, including raids at their offices and homes and confiscation of documents. Following the death in custody of one lawyer, several others were reportedly detained and charged with the offence of planning to assemble, demonstrate, resist the authorities and disturb public order. This was allegedly related to their defending Islamist prisoners in trials before military courts.

120. The Special Rapporteur also received alarming reports of killings by Islamist groups. The victims of such attacks included members of the security forces and civilians, including members of the Coptic minority. The state of emergency, in force since 1984, was reportedly extended for another three years in April 1994 by the People's Assembly.

121. The Special Rapporteur sent nine urgent appeals to the Government, all of which concerned death penalty cases. The following persons were said to be at risk after being sentenced to death by military courts: Mahmoud Salah and Mostafa 'Awni Zaki (26 November 1993); Medhat Tahhawi, Mohammad Ahmed Sa'id Salih and Hammada Mohammad Lutfi (23 February 1994); Salah al-Sayyid Sulayman and seven others (22 March 1994 and 8 April 1994); Mohammad Rashad 'Abd al-Hamid Higazy and four others (19 and 29 July 1994); Ahmed Muhammad Gumu'a and Sharif Mohammad Hassan (26 September 1994 and 20 October 1994). One urgent appeal concerned the death sentence handed down on 30 December 1993 by the (Emergency) Supreme State Security Court against 'Abd al-Shafi Ahmed Ibrahim, convicted of having murdered a well-known writer in June 1992. According to the information received, defendants before the (Emergency) Supreme State Security Court do not have the right to appeal before a higher tribunal, as, according to the State of Emergency Act No. 162 of 1958,

verdicts or sentences passed by this court can only be reviewed by the executive, i.e. the President or a person mandated by the President to do so (17 January 1994).

122. In addition, the Special Rapporteur transmitted to the authorities the cases of Tarek el-Qurashi (17), together with six unidentified persons, reportedly killed by the security forces during an operation directed against suspected terrorists; Tharwat Hagag and two unidentified persons, allegedly killed by plainclothes policemen, who suspected them of being terrorists; and Abdel-Harith Madani, lawyer and member of the Egyptian Human Rights Organization, who died reportedly as a result of torture during detention by the SSI.

Communications received

123. The Government provided replies to the Special Rapporteur's urgent appeals of 17 January, 23 February, 19 and 29 July as well as 26 November 1994, stating that trials before military courts were conducted in accordance with proper legal procedures and passed through all the stages prescribed in the national laws and legislation. The Government pointed out that military courts were permanent standing courts composed of three judges presided over by the most senior. The judges were independent and subject to no authority other than that of the law and their consciences. Guarantees and safeguards for defendants included compulsory presence of at least one lawyer to defend any person accused of a felony before the military courts; the right to seek review of the judgement in felony cases; appeals against judgements within 15 days of notification; and automatic consideration of pardon. The competence of military courts to try civilians simply meant that the procedural articles of the Code of Military Justice applied, whereas the applicable definitions of crime and punishment were those set forth in the Penal Code to which all persons, whether civilian or military, were subject and which was applied by all the criminal courts in Egypt (12 April 1994). Such trials were held in secret if so decided on grounds of public order and public morals. Penalties were prescribed by law and could be imposed only by a court of law. A legally prescribed appeal procedure existed, which had to be followed by all defendants (15 March 1994). Mohammad Rashad 'Abd al-Hamid Higazy et al., were sentenced to death by the Supreme Military Court for a number of offences including membership of a group established to advocate action to render the provisions of the Constitution inoperable, participation in a criminal conspiracy and attempted murder of the Minister of the Interior. On the last day of the legally specified 15-day time-limit for the lodging of appeals, the five defendants contacted the Judge Advocate General and requested a review of their sentences (29 August 1994).

124. A reply was also received to the allegations concerning the death of Abdel-Harith Madani, whose case had also been transmitted to the authorities by the Special Rapporteur on the independence and impartiality of the judiciary. The Government informed that Mr. Madani was arrested for being a member of a terrorist organization and accompanied by the unit that arrested him to his principal residence, which was searched. On the way to his secondary residence, he complained about difficulties of breathing and was taken to a hospital, where he remained for treatment. During the afternoon

of the following day, he died at the hospital. An autopsy was performed. Investigations are being carried out by the Department of Public Prosecutions (18 October 1994).

Follow-up

125. The reply received from the Government on 12 April 1994 also referred to the Special Rapporteur's urgent appeals of 25 October and 12 November 1993 (see E/CN.4/1994/7, para. 261 (f) and (g)). On 23 September 1994, the Special Rapporteur addressed a letter to the Government following up on replies provided by the authorities in 1993 and 1994. The Special Rapporteur thanked the Government for its willingness to cooperate with his mandate but reiterated his concern at continuing allegations that defendants in trials before military tribunals in Egypt did not benefit from all the guarantees and safeguards contained in the pertinent international instruments.

Observations

126. The Special Rapporteur wishes to thank the Government for the information provided in reply to several of his communications. However, he remains concerned at the persistent allegations according to which, in practice, defendants before military courts do not benefit from all the safeguards and guarantees contained in the pertinent international instruments. The Special Rapporteur is also concerned that, in proceedings before ordinary courts, there is no provision for appeal in cases of felonies. The Special Rapporteur finds himself in a situation where, with growing concern, he continues to receive allegations of grave procedural shortcomings from credible sources. The Government, in turn, regularly denies the veracity of these allegations.

127. Furthermore, the reports and allegations received concerning the death while in the custody of the security forces of a lawyer, as well as threats and harassment reported against other lawyers, are most disturbing. The Special Rapporteur calls on the authorities to ensure that members of the legal profession may exercise their activities without harassment or persecution, according to the Basic Principle on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana from 27 August to 7 September 1990.

El Salvador

128. The Special Rapporteur continued to receive reports of human rights violations, including extrajudicial, summary or arbitrary executions and death threats, in El Salvador. A number of these reports referred to activities of "death squads", allegedly closely related to State structures, directed mainly against members of the Frente Farabundo Martí para la Liberación Nacional (Farabundo Martí National Liberation Front, FMLN) and other opposition parties. During the weeks and months leading up to parliamentary elections in March 1994 and presidential elections in April 1994, "death squad" activities were reported to have increased. In December 1993, the Government was said to have set up a commission known as the Grupo Conjunto (Joint Group) to investigate "illegal armed groups". The findings of their investigation were made public in mid-July 1994. However, concerns were expressed that the

recommendation of the Truth Commission, contained in its March 1993 report, to put an end to the phenomenon of "death squads" still threatening the society, was not implemented, and that they continued to operate with virtually total impunity. For a detailed analysis of the human rights situation in El Salvador, reference is made to the report of the Independent Expert on El Salvador, Mr. Pedro Nikken (E/CN.4/1995/88).

129. The Special Rapporteur sent five urgent appeals to the Government. He urged the authorities to adopt all necessary measures to protect the life and physical integrity of Nidia Díaz, candidate for the FMLN in the March 1994 parliamentary elections, after an attack against her and her personal guard Elmer Cruz Zepeda in which both were injured (15 March 1994). He also called upon the Government to ensure protection of members of the political opposition after the assassination of Heriberto Galicia, candidate for the Movimiento Nacional Revolucionario (National Revolutionary Movement, MNR) for the parliamentary elections in March (31 March 1994). Another urgent appeal was sent after the Special Rapporteur received information of death threats against Carlos Molina Fonseca, Procurator for Human Rights, Juan Jerónimo Castillo, Attorney General, both members of the Grupo Conjunto, Eduardo Tomasino, President of the National Council of the Judiciary, and priests teaching at the Universidad Centroamericana (13 June 1994). The Special Rapporteur repeated his call for protection of members of the political opposition after the assassination of FMLN activist Luis Antonio Méndez and death threats against Archbishop Arturo Rivera y Damas and Bishop Gregorio Rosa Chávez (6 July 1994), and again after the killing, allegedly by members of a "death squad", of David Faustino Merino Ramírez, member of the executive committee of the Fuerzas Populares de Liberación (Popular Liberation Forces, FPL) and death threats against Carlos Córtez Hernández and FPL coordinator Pablo Parada Andina (18 November 1994).

130. The Special Rapporteur also transmitted to the Government the case of José Isaias Calzada Mejia, member of the FMLN; Miguel de Jesús García Hernández, former FMLN combatant; Marta Alicia Mejía Herrera, candidate of the FMLN in the parliamentary elections of March 1994, as well as Oscar Fernando Pacheco Argueta, Francisco Antonio Vásquez Díaz and Luis Francisco Gaytan Velásquez, all four threatened with death by a "death squad"; and two persons reportedly killed by members of the security forces: José Dolores Rodríguez Amaya and Jaime Isabel Menjivar Chilín. At the time the present report was finalized, no replies had been received from the Government.

Follow-up

131. On 13 December 1993 and 4 January 1994, the Government provided the Special Rapporteur with information according to which investigations were carried out into the killings of two FMLN members, Mario López Alvarenga and Eleno Castro, the latter case being investigated by a joint commission composed of representatives of the Government and the United Nations Observer Mission in El Salvador (ONUSAL). On 23 September 1994, the Special Rapporteur sent a letter to the Government asking for information concerning the progress of these investigations.

Observations

132. The Special Rapporteur remains concerned at the persistent reports and allegations of politically motivated violations of the right to life in El Salvador. Information according to which "death squad" activities continue are most disturbing. In this context, the Special Rapporteur refers to the report made public in mid-July 1994 by the Grupo Conjunto, which concluded that groups with political motive continued to operate in El Salvador, reminiscent of the "death squads". The Special Rapporteur reiterates his call on the authorities to implement the recommendations made in 1993 by the Truth Commission to thoroughly investigate the "death squads" and eradicate this threat to society. The Special Rapporteur also urges the Government to make all efforts to guarantee the safety of the members of those former guerrilla organizations that have incorporated themselves into civilian life and participate in the democratic process.

Ethiopia

133. The Special Rapporteur received several communications expressing concern at the occurrence of extrajudicial, summary or arbitrary executions in Ethiopia. The Special Rapporteur transmitted one urgent appeal to the Government after receiving information on the alleged extrajudicial killing by government soldiers of five members of the political party Ogaden National Liberation Front (ONLF). Fears had been expressed for several hundred other members or supporters of the ONLF said to have been arrested in early 1994, some of whom were reported to have been tortured in detention (4 March 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the killing of at least 10 civilians when security forces opened fire against demonstrators in Gondar in September 1993, and of at least 50 participants by government soldiers who indiscriminately fired on a demonstration organized by the OLNF in Wardheer in February 1994. Three of the victims were identified as Ahmed Ibrahim Nur, Abshir Ali Dhuh and Hakin Hersi. At the time the present report was finalized, no reply had been received from the Government.

134. On 27 October 1994, the Transitional Government of Ethiopia issued a press release stating that the Chief Special Prosecutor had submitted, on 25 October 1994, the first charges against the leaders of the former Provisional Military Administrative Council - also known as the Dergue - to the Central High Court in Addis Ababa. Seventy-three Dergue members, including former head of State Mengistu Haile Mariam, who was to be tried in absentia, pending his extradition from Zimbabwe, requested in February 1994, were charged with genocide and crimes against humanity. These charges were only the first indictments concerning persons suspected to have committed or ordered to be committed atrocities under the ousted regime. Further charges would be filed subsequently regarding war crimes and related offences. The Transitional Government declared it its duty to bring to justice those persons with respect to whom there were serious reasons for considering that they were responsible for serious violations both of internatinal and domestic law.

Follow-up

135. On 9 December 1993, the Government provided the Special Rapporteur with a reply to the case of Tesfahun Worku, transmitted in 1993, informing him that an inquiry committee headed by the President of the Supreme Court had been set up to clarify the events surrounding the student demonstration in Addis Ababa during which the victim had been killed. On 23 September 1994, the Special Rapporteur addressed a letter to the Government requesting further details on the progress of these investigations as well as the legal basis and attributions of an inquiry committee such as the one established in the case in question.

Observations

136. The Special Rapporteur has followed with interest the work of the Office of the Special Prosecutor. The beginning of judicial proceedings is certainly an important step towards clarification of past human rights violations. While welcoming this initiative, the Special Rapporteur wishes to remind the authorities of the rights and guarantees contained in a number international instruments relating to due process of law and the need to ensure the highest possible standards of fair trial, particularly in view of the gravity of the accusations. In this context, the Special Rapporteur would like to remark that, in its resolutions establishing international criminal jurisdictions for the trial of those responsible for genocide and crimes against humanity committed in the former Yugoslavia and in Rwanda, the Security Council excluded capital punishment and limited the penalties to imprisonment (see also below paras. 374 and 406). The Special Rapporteur also wishes to point out that, in the case of Ethiopia, the information brought to the attention of the Special Rapporteur is not sufficient so as to constitute prima facie evidence of genocide.

137. Furthermore, the Special Rapporteur calls on the Transitional Government to ensure, with the same degree of determination as shown in the efforts to bring to justice those responsible for past abuses, that allegations of human rights violations under the current authorities are subjected to exhaustive and impartial investigations, with a view to establishing the facts, determining those responsible and bringing them to justice, granting adequate compensation to the victims or their families, and to prevent the recurrence of such violations.

Gabon

138. The Special Rapporteur sent an urgent appeal to the Government after receiving information about the death in a gendarmerie camp at Libreville, during the night of 2 to 3 February 1994, of 71 clandestine immigrants, reportedly due to the extreme overcrowding of the detention facility (15 February 1994). The Government replied on 21 February 1994, informing the Special Rapporteur that the deaths had occurred in the context of a confrontation between immigrants of different nationalities who were being held in a hall and three rooms in acceptable conditions. The deaths were discovered on the morning of 3 February and, after a meeting with the diplomatic representatives of the States whose nationals had died, it was agreed that the victims should be buried, as it was not possible to carry out

autopsies on such a large number of bodies. The Government also stated that it planned to establish a centre for clandestine immigrants intercepted by the security forces so as to be able to identify them and send them back, and to avoid similar tragedies in the future. On 18 May 1994, the Government invited the Special Rapporteur to visit Gabon.

Observations

139. As stated in a letter to the Government of 26 May 1994, the Special Rapporteur is grateful to the authorities for their invitation to visit Gabon and their willingness to cooperate with his mandate. Due to the emergency situation in Rwanda, it was not possible for the Special Rapporteur to follow up on the invitation during the summer. He did, however, ask the Government to provide him with information on all steps taken to investigate the events of February 1994. In this context, the Special Rapporteur would like to point out that the responsibility for carrying out investigations into alleged violations of the right to life, with a view to identifying those responsible, bringing them to justice, granting adequate compensation to the families of the victims and taking all necessary steps to prevent the recurrence of such violations, lies with the State authorities. The Special Rapporteur cannot, and does not wish to, replace them in this task, as his role consists in observing how Governments comply with their obligations under international law and assisting them through recommendations, where appropriate.

140. The Special Rapporteur would also like to express his preoccupation at the conditions of detention for clandestine immigrants intercepted by the security forces. He is concerned at information indicating that security personnel may have been implicated in the events leading to the deaths in the camp. The Special Rapporteur calls on the authorities to fulfil their obligation to conduct exhaustive and impartial investigations into the killings with a view to clarifying facts, bringing those found responsible to justice and punishing them, providing adequate compensation to the families of the victims and adopting measures so as to prevent the recurrence of similar incidents. The Special Rapporteur also wishes to point out that the number of victims and the need to bury them quickly for hygienic reasons should not be an excuse for not undertaking forensic examinations of their remains. Such examinations should be carried out by experts, if necessary from abroad.

Guatemala

Information received and communications sent

141. The reports and allegations that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Guatemala on an alarming scale, despite the peace process initiated between the Government and the Unidad Revolucionaria Nacional de Guatemala (National Revolutionary Unit of Guatemala, URNG). Negotiations had led to the signing, on 29 March 1994, of a human rights accord, and an agreement, in June 1994, on the formation of a Commission for the Clarification of Violations of Human Rights and Acts of Violence which Caused Suffering to the Guatemalan People during the Armed Conflict.

142. The Special Rapporteur continued to receive numerous reports of violations of the right to life. According to a report published by the Archbishop's Human Rights Office of Guatemala in July 1994, more than 160 people had been victims of extrajudicial, summary or arbitrary executions during the first six months of the year. In addition, an increasing number of acts of harassment and death threats were reported. Concern was expressed that those responsible for human rights violations enjoyed, as in former years, virtually complete impunity. Trade unionists, human rights activists, members of popular organizations, journalists, persons linked with the church engaged in activities in favour of marginalized sectors, as well as Guatemalan refugees who had returned from Mexico and people working with them, continued to be particularly targeted. The Special Rapporteur is also concerned at persistent allegations of violence against street children and individuals and organizations trying to improve their situation. As in the past, members of the security forces and of Patrullas de Autodefensa Civil (Civilian Self-Defence Patrols, PAC), were said to be responsible for extrajudicial killings and death threats. With regard to the PAC, the Special Rapporteur continued to receive reports of acts of violence against persons opposing forced recruitment into the ostensibly voluntary PAC. For a comprehensive analysis of the human rights situation in Guatemala, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Independent Expert on Guatemala, Ms. Mónica Pinto (E/CN.4/1995/15).

143. The Special Rapporteur sent 30 urgent appeals to the Government. In most of them, he urged the authorities to adopt all necessary measures to protect the lives and physical integrity of the following persons whose lives were said to be at risk:

(a) Graciela Esther Barrios Marroquín, a Caritas worker in El Quiché (14 January 1994); Francisco León Guarcas and Manuela Nas, as well as Josefa Macaria Calel, after the killing of their son and husband, respectively, Felipe León Nas, allegedly for his involvement in various development projects in the community of Chiché, El Quiché (7 February 1994); Father Axel Mencos and Father Felipe Neri Quintanilla, priests of Chichicastenango, El Quiché (2 March 1994); Bishop Rodolfo Quezada Toruño, President of the Asamblea de Sociedad Civil (ASC), who had acted as a mediator between the Government and the URNG (6 July 1994);

(b) Estela Nimajuan and her four children between 4 and 12 years of age, after the assassination of her husband Juan Colo Pichol, collaborator of the Auxiliar de Derechos Humanos of Chimaltenango, and human rights activists Mario Colo Martínez and Manuel Chávez Zunún (2 February 1994); Axel Mejía, Coralia Pérez and other collaborators of "Casa Alianza" (2 March 1994); human rights activist Nineth de Montenegro of GAM (Grupode Apoyo Mutuo por el Apareciemento con Vida de Nuestros Famillaries - Mutual Support Group for the Appearance of our Relatives Alive) and trade unionists Byron Morales, Nery Barrios, Armando Sánchez, Perci Méndez, Ernesto Bol and Carlos Enrique Lobos, as well as journalist Adolfo Héctor Ortiz Barrera (21 March 1994); human rights activists Nineth de Montenegro and her husband Mario Polanco (24 March 1994) as well as the latter's brother Carlos Polanco and Geovany Monroy (31 March 1994); Gustavo Eduardo Lapola and Víctor Hugo Gudiel, members of the Executive Committee of the Students' Association (24 March 1994); trade unionists Nery Barrios, Armándo Sánchez, Dick Fletcher, Humberto Sánchez, Dante Monterroso, José Pinzón, Conrado Alberto Solís, Tránsito de Jesús López, Carlos Enrique Solís Ramos and Félix Hernández, after the killing of trade unionist Germán Alfredo de León Parajón (13 June 1994); trade unionists Diego Lux Tun, Blanca Santos, Luis Arturo Yantuche Morales, Manuel Cortez Pérez, Florencia de Jesús Telmán García, Noé Figueroa, Francisco Roberto Peña, Ricardo Wilson, Noé Peña and Juana Peña, after the killing of Adler Giovanni Wilson, son of Sonia Victoria Wilson, the Secretary-General of the Sindicato de Trabajadores de Mantenimiento y demás Dependencias del Ministerio de Finanzas Públicas (6 July 1994); trade unionist René Cabrera Estrada, after the killing of Efraín Recinos Gómez, Basilio Guzmán and Diego Orozco (15 September 1994); members of the AEU, after the killing of Mario López Sánchez during a demonstration on university premises (17 November 1994);

(c) Juan Enrique Quiñones Schwank, Technical Director of the Asociación para el Desarrollo para América Central (Association for the Development of Central America, ADEPAC) (2 February 1994 and again on 29 April 1994); Pedro Asturiaz Ruíz, technical counsellor of the Comisiones Permanentes de Representantes para el Retorno de los Refugiados Guatemaltecos en México (Permanent Commissions of Representatives for the Return of Guatemalan Refugees in Mexico) (19 April 1994); former refugees and persons working with them, after the killing of returnee Manuel López (14 November 1994);

(d) Otto Morán, director of the journal "Tinamit", journalist Marco Vinicio Mejía, and other staff of "Tinamit", after the assassination of journalist Víctor Cruz and his daughter María Mejía (14) (5 February 1994)

(e) Judge Yolanda Pérez Ruíz, allegedly for her investigations into alleged human rights violations by members of the military (16 March 1994); Mario Salvador Jiménez, Héctor Raúl Orellana and María Eugenia Villaseñor, judges at the Appeals Court of Guatemala, allegedly in relation with their work on several cases involving members of the security forces (6 September 1994) as well as their bodyguard Miguel Manuel Pacheco Cárdenas (20 October 1994); witnesses in the judicial proceedings concerning the killing of Jorge Carpio Nicolle (31 October 1994);

(f) Street children Luis Antonio Roldán Izeppi (17), Myriam Eugenia Fuentes (14) and Francisco Tziac, as well as Luis Aroldo Vázquez (18 March 1994); Víctor Manuel Alex (16), after having witnessed the killing, allegedly by police, of fellow street child Sergio Manuel Chávez, alias "El Chupado" (14 September 1994); Rigoberto Solórzano, Julio César Chávez Orozco, Víctor Manuel García and other street children, after the killing of fellow street children Rubén García González, Daniel Rosales, Fidel Solórzano, Juan Humberto Ramos Cifuentes and Cecilio Jax (4 October 1994);

(g) Pedro de León Corio, collaborator of the Human Rights Commission of Guatemala, Pedro Bop del Barrio (17), Camilo Bernal Morales and Pedro Bop Caba, by members of the PAC of Chel, El Quiché (21 April 1994); the inhabitants of Panabajal, Chimaltenango, after the assassination of Pascual Serech, member of the Cakchikel indigenous group, reportedly for having opposed forced recruitment into the local PAC (16 August 1994).

144. In addition, the Special Rapporteur urged the Government to carry out exhaustive and independent investigations into human remains found in a clandestine cemetery at Cuarto Pueblo Ixcán which may belong to victims of extrajudicial, summary or arbitrary executions. The Special Rapporteur recommended that internationally renowned forensic specialists be invited to participate in the excavations and analysis of the remains (20 October 1994).

145. The Special Rapporteur also transmitted to the Government the cases of trade unionist Santiago Ramón Morales Escobar, reportedly killed in November 1993 by gunmen linked to the security forces; Juan Carlos Ruíz Ramírez (15), allegedly shot by a policeman for no apparent reason; Mariano Pérez, reportedly shot by soldiers who accused him of being a guerrilla collaborator; trade unionist Germán Alfredo de León Parejón, allegedly killed by security forces after being tortured. In addition, the Special Rapporteur transmitted to the Government his concern at alleged irregularities in the investigation into the killing of Jorge Carpio Nicolle.

Communications received

146. The Government provided the Special Rapporteur with replies concerning a number of the cases transmitted in 1994, informing him that judicial investigations had been opened into the killing of Felipe León Nas (27 April 1994); the killing of María Eugenia Muñoz Talomé de Mejía and her daughter María Alejandra Palomo Muñoz (14), wife and step-daughter, respectively, of journalist Marco Vinicio Mejía (1 June 1994); the killing of Efraín Recinos Gómez (29 September 1994); and the killing of several persons in the village of Chel (7 October 1994). At the time of the replies, the proceedings were at different stages. In some of the cases, charges had been brought against those presumed to be responsible for the killings or threats. In the case of death threats against the judges Salvador Jiménez Barillas, María Eugenia Villaseñor and Raúl Orellana, the Government also informed the Special Rapporteur that judicial investigations had been initiated. In October 1994, upon return from a trip abroad, María Eugenia Villaseñor had stated that she no longer needed the protection provided by the State security forces, as the threats against her had ceased (29 September and 16 November 1994).

147. In the case of Graciela Esther Barrios Marroquín, the Government pointed out that she had not filed a complaint before any court, as required by law for an investigation to be carried out (18 April 1994). In a later communication, the Government informed the Special Rapporteur that, after a request made by the Human Rights Procurator's Office, police protection was granted to Esther Barrios Marroquín. The Government further reported that, in accordance with the penal law in force, no information could be provided from the files of proceedings that were under investigation (24 August and 22 November 1994). In the case of the killing of trade unionist Germán Alfredo de León Parajón, the Government informed the Special Rapporteur that investigations had been initiated and that a private dispute might be at the root of the killing (19 October 1994). The Government also provided a reply to the Special Rapporteur's urgent appeal of 6 July 1994, informing him that an arrest warrant had been issued as a result of investigations into the killing of Adler Geovani Wilson but the wanted person could not be detained, as his whereabouts had not yet been established (25 November 1994).

Follow-up

148. The Government provided the Special Rapporteur with a number of replies to allegations transmitted in 1993, informing him that judicial proceedings had been opened and were under way at the time of the replies in the cases of the killing of Henry Yubani Alvarez Benítez (see E/CN.4/1994/7, para. 310) (24 March 1994). In the case of Andrés Godinez Díaz and María Pérez Sánchez (see E/CN.4/1994/7, para. 309 (b)), no evidence for the involvement of the PAC could be found. As the investigations were continuing, no further details could be provided (27 April and 25 November 1994). The Government also informed the Special Rapporteur that no torture or ill-treatment had occurred during the detention of Marco Choco Damas, as the latter confirmed himself in a statement signed by him (see E/CN.4/1994/7, para. 308 (c)) (24 March and 25 November 1994). In the case of Pablo Itzep Hernández, Cruz Luz Hernández and Manuel Batén Hernández (see E/CN.4/1994/7, para. 308 (c)), the Government told the Special Rapporteur that a captain of the Guatemalan army had been sentenced to four years' imprisonment and payment of an indemnity to the victims (24 August 1994). As concerns allegations of death threats against Jerónimo Morales Tiriquiz and Tomás Suy Canil, investigations had been opened. After their return to the family home, they no longer complained of any acts of intimidation against them (see E/CN.4/1994/7, para. 308 (c)) (18 March and 25 November 1994). Finally, medical doctor Brenda Mérida (see E/CN.4/1994/7, para. 308 (c)), had not responded to repeated invitations to collaborate in the investigations initiated by the competent tribunal (25 November 1994).

149. On 23 September 1994, the Special Rapporteur addressed a letter to the Government in which he thanked the authorities for the information provided in the aforementioned communications and asked for additional details as to the progress of the investigations and, where appropriate, their results. He also reiterated his request for additional details contained in his follow-up letter of 22 September 1993 (see E/CN.4/1994/7, para. 312), for which no reply had been received from the Government.

Observations

150. In his report to the Commission on Human Rights at its last session, the Special Rapporteur expressed deep concern at the persistent and grave allegations of violations of the right to life that had come before him during 1993 (see E/CN.4/1994/7, para. 313). The reports and allegations brought to his attention during 1994 continue to be most disturbing. The Special Rapporteur calls on the Government to take firm action with a view to putting an end to impunity by conducting exhaustive and impartial investigations into all allegations of violations of the right to life, to identify those responsible and bring them to justice, whatever their occupation, rank or position, grant adequate compensation to the victims or their families and take all necessary steps to prevent further human rights violations. The Special Rapporteur also calls on the authorities to adopt measures to eradicate violations of the right to life in the context of the PAC system. In addition, those lawfully engaged in trade unions and activities aiming at the defence of human rights should benefit from adequate protection measures as a matter of priority. The Special Rapporteur hopes that the implementation of the human rights agreement and the accord on the Clarification Commission

may lead to an improvement in the respect for human rights, and calls on the Government and the URNG to make every effort to comply with the agreements and continue the process towards peace and reconciliation in Guatemala.

Haiti

151. According to the reports and allegations received during 1994, the human rights situation in Haiti continued to be precarious. Violations of the right to life, attributed to members of the army or the police, paramilitary groups and armed civilians cooperating with them (attachés), included extrajudicial, summary or arbitrary executions and death threats, directed principally against supporters of President Jean-Bertrand Aristide. Hopes have been expressed that, with the return of President Aristide to Haiti, respect for human rights may improve. With regard to an in-depth analysis of the human rights situation in Haiti, the Special Rapporteur wishes to refer to the report of the Special Rapporteur on the human rights situation there, Mr. Marco Tulio Bruni Celli (E/CN.4/1995/59).

152. During 1994, the Special Rapporteur addressed six urgent appeals to the de facto authorities in Haiti, expressing concern at the alarming scale of violations of the right to life in the country and urging them to take steps to prosecute those responsible for such violations and prevent further acts of violence. In particular, the Special Rapporteur acted upon allegations of the killing of Saurel Guerrier (17) (9 February 1994); the killing of Ronald Pierre, Jance Pierre and Henri Eliassin, as well as fear for the lives of Saintil Alcidor, Jean-Pierre Josué and Fernand Hachette, all members of the Projet Association d'Education des Pasteurs pour le Développement (PAEPD) (15 February 1994); the torture and killing of Harold Fontaine and fears for the life of Dumez Schneider, allegedly abducted together with Harold Fontaine (29 April 1994); fears for the lives of Reynolds Georges, his wife Marie Hélène Georges and Gesnère Hubert, employee at their household (16 August 1994); the killing of 20 to 50 persons, including "Ti Claude" (29 April 1994); and the killing of Father Jean-Marie Vincent (1 September 1994).

Observations

153. The reports and allegations received during 1994 warrant deep concern. The Special Rapporteur hopes that the return of President Aristide may mark the beginning of a new era in Haiti, in which the human rights situation improves. He also hopes that the United Nations mission to Haiti may resume its activities in the near future and contribute to respect for human rights. However, the Special Rapporteur notes with regret that General Cédras and other military leaders responsible for the numerous extrajudicial, summary or arbitrary executions and other human rights violations in Haiti imputed to them enjoy impunity. To the Special Rapporteur's knowledge, there are no attempts to hold the former de facto authorities responsible for human rights violations committed under their responsibility.

Honduras

154. The Special Rapporteur received reports according to which, in late December 1993, Leo Valladares Lanza, the National Commissioner for the

Protection of Human Rights, published a preliminary report on disappearances in Honduras between 1980 and 1993, recommending that former and current military and civilian officials responsible for these disappearances be brought to justice. The National Commissioner also recommended reforms of the judicial system and the military. The new Government of President Carlos Roberto Reina, which took office in January 1994, reportedly pledged to implement these recommendations.

155. However, the Special Rapporteur received with concern reports of death threats and intimidation against Leo Valladares Lanza as well as Berta Oliva de Nativí, General Coordinator of the Comité Nacional de Familiares de los Desaparecidos en Honduras (National Committee of Relatives of Disappeared in Honduras, COFADEH) and COFADEH collaborator Dina Meetabel Meza Elvir (urgent appeal sent on 24 March 1994) and of further threats against COFADEH and Jorge Valladares Valladares, assistant to the National Commissioner (urgent appeal sent on 6 July 1994). The Special Rapporteur also sent urgent appeals to the Government on behalf of Carlos Roberto Ventura, allegedly under death threats by members of the security forces after having witnessed the extrajudicial execution of Juan Pablo Laguna Cruz (5 February 1994); and after receiving reports of an attempt against the life of Jorge Alberto Sierra Moncada, member of the Comité para la Defensa de los Derechos Humanos en Honduras (Committee for the Defence of Human Rights in Honduras, CODEH) (16 March 1994). In addition, the Special Rapporteur transmitted to the authorities the case of Rutilio Matute, member of the Xicaque indigenous community, reportedly abducted and later found dead in May 1994. Members of the security forces were said to have been involved in his killing. To date, no reply has been received from the Government to any of these communications.

Observations

156. The Special Rapporteur noted with satisfaction the announcement by the Government of its intention to clarify cases of disappearances and bring to justice those responsible. Reports of threats and attacks against the National Commissioner for Human Rights and his assistant as well as members of human rights organizations, some of which have cooperated with United Nations mechanisms for the protection of human rights for many years, are most disturbing. The Special Rapporteur encourages the authorities to make every effort to implement the recommendations made by the National Commissioner.

India

Information received and communications sent

157. During 1994, the Special Rapporteur received a number of reports and allegations of human rights violations, including extrajudicial, summary or arbitrary executions, in India. Most of these reports referred to deaths in the custody of the security forces as a result of torture. Concern was expressed that legal safeguards currently in force in India were not sufficient to protect detainees, and those that exist are often disregarded. The Special Rapporteur was informed that legislative proposals were brought before Parliament by the Government in May 1994 with a view to strengthening legal safeguards to protect police detainees from torture. The National Human Rights Commission, established in September 1993, reportedly started

investigations into deaths in custody. However, several sources informed the Special Rapporteur that the vast majority of those responsible for deaths in custody, whether police or army personnel, have not yet been brought to justice.

158. The Special Rapporteur sent three urgent appeals to the Government after being informed of fears for the lives and physical integrity of Kanwar Singh Dhami, his wife Kuldip Kaur and their six-year-old son (8 April 1994); detainees in Rajasthan, after the deaths in police custody, allegedly as a result of torture, of Shankarlal Soni, Mahiman Kaushik, Rajendra Singh, Mahesh Jain and Chhitarlal between April and July 1994 (22 August 1994). The Special Rapporteur sent another urgent appeal calling on the authorities to ensure protection of the right to life and physical integrity of detainees after receiving reports of the deaths in police custody, allegedly after torture, of Rajesh Singhal and Tejaram Bill (1 September 1994).

159. The Special Rapporteur also transmitted to the Government allegations he had received concerning the deaths in police custody in the State of Andhra Pradesh during the month of September 1993 of P. Ashalu, Khader Babu, Pochamma and a five-month-old child; the killing, allegedly after torture, by army personnel, of Sara Begum; and the deaths of Udayan, Madan Lal, Gyuani Ram, Babu alias "Iqbal", Dilbagh Singh, Raju Bhujel, Sarabit Singh, Wilson, Ram Singh and Ganesh Bauri, allegedly due to torture while in custody in police premises in various parts of the country.

Communications received

160. In a letter dated 25 November 1994, the Government provided replies to most of the allegations transmitted in 1994. Thus, the Special Rapporteur was informed that a police constable and the cook at the police station at Narwana faced trial for poisoning Ram Gyani (not Guyani); the arrest and suspension, pending preparation of their criminal prosecution, of police personnel who had killed Wilson by beating him with sticks and iron pipes had been requested. In the case of Ram Singh, investigations showed that he had been tortured during police detention, but it could not be determined whether he had died or not. Proceedings against six police officers had been initiated. Proceedings were also under way to inquire into the circumstances of the deaths of P. Ashalu, Khader Baba and S. Pochamma, who had died during detention due to health problems. Furthermore, as regards the killing of Iqbal Babu, the matter was sub judice. Dilbagh Singh died accidentally when he fell off the railway compartment while accompanying police to apprehend a terrorist known to him. Inquiries were still under way.

161. In the same letter, the Government informed the Special Rapporteur that the five-month-old baby Rama had died from a respiratory tract infection, owing to lack of proper medical treatment, and not as a result of ill-treatment. Sara Begum had been found dead, and it was not possible to determine the cause or circumstances of her death. No information could be obtained as to the killing of a person called Sarbjit (not Sarabit) Singh.

162. With regard to the Special Rapporteur's urgent appeal of 8 April 1994, the Government reported that Kanwar Singh Dhami and his wife Kaur Kuldip had been arrested for their involvement in terrorism and violence. Both are

currently being tried and remained in Chandigarh jail at their own request, as they felt threatened by another terrorist group. Their son Kanbar Ranbir Singh was with his parents at the time of their arrest, but was released immediately (25 November 1994).

Follow-up

163. The Government also provided the Special Rapporteur with information in reply to numerous cases transmitted in 1993, informing him that investigations had been carried out which established that Hamida Mattoo (see E/CN.4/1994/7, para. 333 (b)) was caught in a cross-fire between government forces and armed militants; criminal procedures were under way against security forces personnel suspected of being involved in the death of Manzoor Ahmed Ganai (ibid., para. 333 (d)), whc died of renal failure one week after being released from custody; a joint investigation by military and police personnel was under way into the killing of Riyaz Ahmed (ibid., para. 333 (d)), a police agent who was killed wearing plain clothes during a military operation in Srinagar; investigations were also under way into the killing of Abdul Ahad Guru (ibid., para. 333 (c)), who was killed by unidentified kidnappers; and Bilal Ahmed and his parents (ibid., para. 333 (b)), who were caught in a cross-fire between security forces and militants. During the days following their death, security forces were compelled to open fire against unruly mobs, causing the deaths of Mohammed Shadi, Aijaz Ahmed Khan and Noor Mohammed Sofi (29 November 1993). In a number of these cases, families of the victims were granted relief payments.

164. In a further communication the Government informed the Special Rapporteur about investigations which established that H.N. Wanchoo (see E/CN.4/1994/7, para. 333 (c)), had been killed by members of a particular militant group, some of whom had been arrested, without any involvement by security forces personnel; criminal investigations were under way in the case of Nandgopal (ibid., para. 333 (d)), who died of asphyxia due to hanging while in police custody; Vidyadharan (ibid.), who had banged his head against the grills of the lock-room while in detention and died as a result of the injuries sustained; Abdul Ahad Magrey and Imtiaz Ahmed (ibid., para. 333 (b)), who were killed when they were in an exchange of fire between security forces and militants; Farooq Ahmed Ashai (ibid., para. 333 (c)), who died of cardio-respiratory arrest due to a bullet wound, after being caught in an exchange of fire between security forces and militants; three police officers were brought to trial in connection with the death in custody of Satyavan (ibid., para. 333 (d)); two police officers were held liable for negligence while on duty after Vikal Kumar Adhana (ibid.) committed suicide while in their custody; Hussain Ashiq (ibid., para. 333 (c), caught by a bullet fired by security forces to disperse an unruly crowd during the funeral of his brother-in-law Abdul Ahad Guru (28 February 1994). In the same reply, the Government informed the Special Rapporteur of investigations into the incidents in Sopore and Ayodhya (ibid., para. 333 (a)). With regard to the killing of 42 persons in Sopore, 10 border security force personnel and their commanding officer were suspended pending inquiries by a special commission of inquiry. After communal riots in Ayodhya security forces restored order and special relief and rehabilitation measures were taken by the Maharashtra

government. A judicial inquiry was ordered which was to submit its report by 24 July 1994. In a number of these cases, families of the victims were granted relief payments.

165. The Government also informed the Special Rapporteur that the lives of Mohinder Singh Grewal and Nazir Ahmed Misri (see E/CN.4/1994/7, para. 332) were not in danger and that they had not been ill-treated while being detained (18 January 1994). Umrao Singh (ibid.) escaped from detention, and a magisterial inquiry had been ordered to determine the circumstances under which he managed to escape (7 July 1994).

166. In a letter on 25 November 1994, the Government reported that two magistrates had concluded that Satyavan (see E/CN.4/1994/7, para. 333 (d)) had died as a result of torture while in police detention. A request by the police department to accord sanction or launch prosecution against seven officers was under way. In the same letter, the Government stated that investigations were under way to determine if police officers had been negligent in the death due to self-inflicted injuries of Vidyadharan and the suicide of Vikal Kumar Adhana while in detention (see E/CN.4/1994/7, para. 333 (d)).

167. With regard to allegations transmitted by the Special Rapporteur in 1992, the Government reported that investigations were carried out with regard to the following cases: Khursheed Ahmed Bhat, who could not be traced and therefore could not be confirmed as having died; Afjal Mohd, whose whereabouts were unknown since he was arrested by border security force personnel in December 1990; Purna Rabha, who committed suicide by hanging while in police detention and whose body bore no traces of atrocities or injuries; Susil Bag, allegedly beaten to death while in police detention, whose case police authorities had been asked to investigate expeditiously (28 February 1994). In the case of Satnam Singh, the Government informed the Special Rapporteur that he had never been arrested or picked up by the police in any district of Punjab (7 July 1994).

168. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked for additional details with regard to, inter alia, the progress of the investigations, the nature of the disciplinary sanctions imposed, the amount of the compensation payments ordered and whether these payments had actually been made, as well as the nature, legal basis and attributions of the special commissions of inquiry. Furthermore, the Special Rapporteur reiterated his request for additional details concerning a large number of other allegations of 1992 and 1993, for which the Government had provided information (see E/CN.4/1994/7, paras. 336-337), made in a follow-up letter dated 22 September 1994, to which no reply had been received. The Government replied to this letter and provided additional information concerning the nature of investigation commissions such as those established in the cases of Nandgopal or the killings at Sopore and Ayodhya. The investigations into the latter two had not yet been concluded, while the report of the inquiry into Nandgopal's death had been submitted to the Government and would be made public after being tabled in the Tamil Nadu Legislative Assembly (25 November 1994).

169. Also on 25 November 1994, the Government provided the Special Rapporteur with comments on some of the observations contained in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 340-342). The Government stressed the disregard for human rights and the rule of law shown by terrorists and armed groups in the States of Jammu and Kashmir and Punjab. The Government pointed out, inter alia, that attacks by these armed groups were directed mainly against the civilian population, and that the authorities were determined to protect the human rights of Indian citizens. Rigorous measures were taken to punish security forces personnel for excesses committed.

Observations

170. The Special Rapporteur wishes to thank the Government for the information provided concerning a large number of the cases transmitted since 1992. The efforts and willingness of the authorities to cooperate with his mandate thus expressed are highly appreciated. Nevertheless, the Special Rapporteur remains concerned about persistent allegations of violations of the right to life, particularly of deaths in custody as a consequence of torture or killings which, according to the authorities, occur in armed encounters. Such reports, which have been received consistently over the past three years, suggest the existence of patterns of violations of the right to life in certain areas of the country, without, however, there being any indication of systematic investigations into these patterns with a view to identifying their causes and adopting the necessary steps to bring them to a halt. The Special Rapporteur notes with concern that, while in most cases investigations are said to be initiated, reports brought to his attention suggest that such proceedings virtually never appear to conclude with a judgement convicting the security forces personnel involved. The length of the investigative procedures is also worrying: in a number of cases, inquiries opened more than two years ago are still said to be in progress.

171. Reports of legislative initiatives to strengthen the legal safeguards for detainees in police custody are most welcome and the Special Rapporteur encourages the Government to continue efforts in this regard. However, he wishes to insist on the importance of holding the authors of violations of the right to life accountable and complying with the obligation to conduct exhaustive and impartial investigations into all alleged extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, to grant adequate compensation to the victims or their families, and to adopt all necessary measures to prevent the recurrence of such executions.

172. In this respect, the Special Rapporteur would like to express concern at the apparent contradiction between the information received from the Government regarding allegations transmitted to the authorities in 1992 and 1993, and comments and observations provided by the sources of these allegations with regard to this information. As he pointed out in his 22 September 1994 letter to the Government, the Special Rapporteur finds himself in a position where it is virtually impossible for him to determine which of the contradicting versions corresponds to reality. In 1993, the Special Rapporteur had inquired whether the Government would consider inviting him to visit India. In November 1993, and again in February 1994, he met with

representatives of the Government to discuss the possibility of such a visit. He was informed then that the authorities preferred to await the first results of the work of the newly established National Human Rights Commission before considering a visit by the Special Rapporteur. However, in view of the dilemma outlined above, the Special Rapporteur reiterated his interest in visiting India so as to be in a position to assess the situation on the basis of first-hand information. The Special Rapporteur also feels that a visit could provide a welcome opportunity to meet the members of the Human Rights Commission for a mutually beneficial exchange of views on issues of common concern: the Special Rapporteur may be in a position to formulate recommendations which could benefit the work of the Commission and to obtain a better understanding of its functioning in practice as well as of the problems and difficulties it encounters.

Indonesia

173. From 3 to 13 July 1994, the Special Rapporteur visited Indonesia and East Timor, on the basis of an invitation extended to him by the Government pursuant to resolution 1993/97 of the Commission on Human Rights. The findings, conclusions and recommendations that resulted from this visit can be found in the first addendum to the present report, published in November 1994 (E/CN.4/1995/61/Add.1). The following paragraphs contain an account of the cases transmitted to the Government in 1994 as well as follow-up activities.

174. Most of the reports and allegations received during 1994 concerned violations of the right to life in East Timor. However, the Special Rapporteur was also informed of extrajudicial, summary or arbitrary executions by members of the security forces in other parts of the country. Thus, the Special Rapporteur transmitted to the Government allegations he had received concerning the killing of four persons called Mutirah, Nindin (14), Simoki and Muhammad, when security forces opened fire, allegedly without any warning or provocation, on a crowd of demonstrators; Jery Manafe, reportedly beaten to death by police officers in West Timor; Shukri T. Nun, allegedly shot by soldiers in Aceh; Tilario Rodríguez (15), Tito Teles, Domingo dos Santos, Abilio Sarmento, Jong Kim Jong, all of them reportedly killed by military personnel in East Timor during the first half of 1994; Joana Soares, Antonio Amaral, Thomas Gomes, Manuel Amaral, Joao Soares and José Soares, reportedly tortured and killed by military personnel in Onu Laran, Burcoli. At the time the present report was finalized, no replies had been received from the Government.

Information received

175. On 26 October 1994, the Government provided the Special Rapporteur with information concerning the decision taken by the Military Court of East Timor on 17 October 1994, in which two privates of the Indonesian armed forces were sentenced to 2 and 2½ years of imprisonment, respectively, for having desecrated Remexio Church, made public disturbances and disobeyed orders. They were also discharged from the armed forces.

Observations

176. For a detailed analysis of the situation with regard to violations of the right to life in East Timor and, particularly, as concerns the killings in Dili and subsequent developments, the Special Rapporteur refers to the above-mentioned report on his mission to Indonesia and East Timor.

Iran (Islamic Republic of)

Information received and communications sent

177. The reports and allegations received by the Special Rapporteur indicate that violations of the right to life continue to occur in the Islamic Republic of Iran. As in former years, it was alleged that death sentences were imposed, and carried out, after trials before Islamic Revolutionary Courts which were alleged to fall far short of internationally recognized fair trial guarantees. The Special Rapporteur also received disturbing reports of persecution of leaders of different Christian churches in the Islamic Republic of Iran, including the imposition of the death sentence for apostasy on Reverend Mehdi Dibaj, a church leader who had converted from Islam to Christianity 45 years ago. The Reverend was released on 16 January 1994, and his dead body was found in July 1994. For an in-depth analysis of the human rights situation in the Islamic Republic of Iran, the Special Rapporteur refers to the report presented to the Commission by the Special Rapporteur on the human rights situation in the Islamic Republic of Iran, Mr. Reynaldo Galindo Pohl (E/CN.4/1995/55).

178. The Special Rapporteur sent six urgent appeals to the Government. Concern was expressed after the Special Rapporteur received reports of death sentences handed down by Islamic Revolutionary Courts against Ahmed Bakhtari (7 December 1994); 15-year-old Mitra Zahraei (11 January 1994); Reverend Mehdi Dibaj (11 January 1994); Ali Akbar Saidi-Sirjani, essayist and novel writer, and Said Niazi-Kermani, publisher and poet (29 April 1994); and Parviz Sason-Yashar (26 May 1994). In another urgent appeal, the Special Rapporteur urged the authorities to take all necessary steps to protect the lives and physical integrity of Hassan Shahjamali, reportedly abducted together with two other church leaders, including Beni Paul, after the dead bodies of Reverend Mehdi Dibaj and Reverend Mikhailian, Chairman of the Council of Protestant Churches in Iran, had been found (11 July 1994). The Special Rapporteur also transmitted to the Government the cases of Bishop Haik Hovsepian-Mehr, General Superintendent of the Assemblies of God Church in the Islamic Republic of Iran, reportedly abducted and later found dead after leading a campaign for the release of Reverend Mehdi Dibaj; and of 75-year-old Feizollah Meikhoubad, reportedly tortured to death while on death row in Evin prison.

Communications received

179. On 15 August 1994, the Government provided the Special Rapporteur with a reply informing him that on the basis of documents and the declarations of a captured member of the Mojaheddin Khalgh Organization of Iran (MKO), it was

established that Reverend Mehdi Dibaj and Reverend Mikhailian had been killed by agents of that organization. The Government further reported that Hassan Shahjamali and Beni Paul had been freed by their abductors.

Follow-up

180. In a follow-up letter to the Government on 23 September 1994, the Special Rapporteur thanked the authorities for the information provided and asked for additional details concerning the investigations carried out in the cases of the religious leaders. He also requested further information with regard to several cases transmitted in 1993, for which the Government had provided replies (see E/CN.4/1994/7, para. 363), in particular with regard to the specific questions of procedural guarantees, such as the right to an adequate defence and the right to appeal.

Observations

181. The Special Rapporteur notes with deep concern the persistent allegations of violations of the right to life in the Islamic Republic of Iran. The Special Rapporteur appreciates the information provided to him by the Government in 1993 and 1994 in reply to some of the cases transmitted by him. However, none of these replies addresses the specific issues of fair trial guarantees in proceedings before the Islamic Revolutionary Courts. The Special Rapporteur reiterates his call, expressed in numerous urgent appeals, to respect the rights of those facing the death penalty, as contained in the pertinent international instruments.

182. Furthermore, the Special Rapporteur would like to express profound dismay at the reports he received concerning the case of Feizoullah Meikhoubad. It may be recalled that he first sent an urgent appeal to the authorities in June 1993, after being informed that Mr. Meikhoubad had been sentenced to death and might face imminent execution. On 22 September 1993, the Government had informed the Special Rapporteur that Mr. Meikhoubad was waiting for the final sentence to be issued and that he was in normal condition, regularly visited by his family. In March 1994, the Special Rapporteur was informed that Mr. Meikhoubad had died on 25 February 1994 in Evin prison after severe torture. Requests to the Government to provide clarifying information have not been answered to date. The Special Rapporteur is deeply concerned at the persistence of reports of deaths in custody under suspicious circumstances. To his knowledge, no efforts have been made to investigate these deaths with a view to identifying those responsible and bringing them to justice.

Iraq

Information received and communications sent

183. Reports and allegations brought to the attention of the Special Rapporteur in 1994 indicate that during trials leading to the imposition of capital punishment in Iraq, defendants do not fully benefit from internationally recognized fair trial guarantees. Grave shortcomings were reported, in particular with regard to an adequate defence, as access to Government-appointed lawyers was said to be severely restricted and in some instances limited to the day before the trial, and with regard to the right to

appeal if the death sentence has been handed down by a "special court". Furthermore, defendants charged with capital offences were allegedly often denied the right to call witnesses on their behalf or to submit evidence refuting the charges. Concerns were also expressed that the majority of trials before "special courts" as well as permanent military courts which hand down death sentences were held in camera. Moreover, confessions used as a basis for the death sentences are frequently said to be extracted under torture. The Special Rapporteur also continued to receive reports of indiscriminate attacks against civilian settlements in the southern Marshes, by the Iraqi military, allegedly using artillery and mortars as well as napalm and fire bombs. For an in-depth analysis of the human rights situation in Iraq, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Special Rapporteur on the human rights situation in Iraq, Mr. Max van der Stoel (E/CN.4/1995/56).

184. The Special Rapporteur transmitted two urgent appeals to the Government of Iraq. He expressed concern at death sentences reportedly imposed on 'Ali 'Issa and three other persons in December 1993, on Jordanian national Kabed Sabri Sa'id Shahada on 5 February 1994, reportedly for drug-related offences, and on Dhafer Zuhair Nahi and seven other persons said to be known as opponents of the Government, reportedly for being "members of a gang" (15 March 1994). In a second urgent appeal, sent in response to reports of indiscriminate attacks in the southern Marshes on several occasions in March 1994, causing the death of at least 13 villagers, the Special Rapporteur called on the authorities to prevent the recurrence of such attacks and to ensure respect for the provisions contained in international instruments regarding the use of force by law enforcement agencies (2 June 1994).

Communications received

185. On 19 April 1994, the Government provided the Special Rapporteur with a reply concerning his urgent appeal of 15 March 1994, informing him that the death sentences against 'Ali 'Issa et al. had been handed down by a competent court, in accordance with Iraqi anti-narcotics legislation, after they had been found guilty of having committed the most serious drug-related offences. The Government expressed its view that article 6 of the International Covenant on Civil and Political Rights was fully applicable to the perpetrators of this crime. The authorities further informed the Special Rapporteur that they had no information on Kabed Sabri Sa'id Shahada, and that the eight persons mentioned in the urgent appeal had confessed to having carried out a number of crimes in various governorates, including the murder of a policeman, several armed attacks and thefts. With regard to the allegations of shortcomings in fair trial guarantees, the Government pointed out that Iraqi legislation provided for the right to appeal, for an automatic review of judgements involving the death penalty by the Court of Cassation in plenary session, and the possibility for the President to grant special pardons except in cases of sodomy, adultery and drug trafficking.

186. On 19 September 1994, the Government replied to the Special Rapporteur's urgent appeal of 2 June 1994, stating that no houses had been destroyed or burnt in any military operation carried out by Iraqi military units. The allegation concerning the use of artillery and napalm bombs was totally unfounded. The Government further pointed out that two of the persons

mentioned in the Special Rapporteur's appeal had been killed in inter-tribal clashes. Following these clashes, two others were detained but released after it was established that they had not been involved in the killing. A third person was also released after investigations owing to a lack of evidence against him. With regard to six other persons, the Government did not have any information.

Follow-up

187. On 7 January 1994, the Government provided the Special Rapporteur with a reply to his follow-up letter of 22 September 1993, in which he had requested additional information concerning the alleged killing of civilians during an armed attack on the village of Uweina (see E/CN.4/1994/7, paras. 372, 375 (a) and 377-378) and the death sentences imposed on a group of 40 merchants (see E/CN.4/1993/46, para. 375 and E/CN.4/1994/7, paras. 376-377). In a letter to the Government on 23 September 1994, the Special Rapporteur thanked the authorities for the information provided but pointed out that the very specific follow-up questions regarding, inter alia, the investigations carried out into the case of Uweina and the names of those killed and wounded in the attack, as well as the names of four merchants who were said to have been released after the court had found the evidence against them insufficient. It should also be noted that the source of the alleged violations of the right to life in Uweina replied to the Special Rapporteur's request for further information, reiterating the concerns expressed earlier.

188. In the same letter, the Special Rapporteur asked the Government to provide him with details additional to the information provided in its reply of 19 April 1994, concerning the legal basis and attributions of the courts before which the defendants had been tried, as well as details concerning the offences committed and the trial proceedings.

Observations

189. The Special Rapporteur appreciates the willingness to cooperate with his mandate shown by the Government in its replies. However, he remains concerned at the persistent reports of military force against civilians in the southern Marshes and reiterates his call on the authorities to prevent the recurrence of acts causing the death of civilians and the destruction of their villages. With regard to capital punishment, the Special Rapporteur notes that, while Iraqi legislation provides for procedural safeguards, the replies received from the Government do not contain any information about how defendants benefit from their rights in practice. Specific questions to that effect have remained unanswered.

Israel

190. The Special Rapporteur received numerous reports of violations of the right to life by members of the Israeli Defence Force (IDF) against Palestinian civilians, including numerous minors, in the occupied Gaza Strip throughout 1993. Concern was expressed that extrajudicial, summary or arbitrary executions continued despite the peace process initiated by the signing of an accord between the Government and the Palestine Liberation Organization (PLO) in 1993. The Special Rapporteur also received disturbing

reports of killings of members of the Israeli security forces and civilians carried out by members of the Islamic Resistance Movement (Hamas), including bomb attacks in Afalu in April 1994, and in Tel Aviv in October 1994. Reference is made to the report presented to the Commission on Human Rights by the Special Rapporteur on the situation of human rights in the occupied Arab territories including Palestine, Mr. René Felber (E/CN.4/1995/19).

191. The Special Rapporteur sent an urgent appeal to the Government after being informed of the killing of Nidal Said Amead Bayoud Al-Tamimi, allegedly while lying on the floor surrounded by soldiers at a check-point. The Special Rapporteur called on the authorities to ensure that IDF personnel respect the restrictions on the use of force and firearms, as contained in pertinent international instruments (17 November 1994).

192. The Special Rapporteur transmitted to the Government 55 cases of alleged extrajudicial, summary or arbitrary executions, reported to have occurred between April 1993 and March 1994 in the occupied territories. In most cases, the victims were said to have been shot dead by snipers of the IDF, often stationed on roof-tops and firing from close range. The following 18 cases concerned minors, reportedly shot dead by members of the security forces:

(a) Raeda Omar Abed Rabbah Qarrah (13); Mohammad Mahmoud Mohammad Abu Shawish (12); Ahead Nathmi Suboh Hamdan (12); Khaled Ibrahim Ali Hilayel (17); Rami Hamed Mohammad Abu (13); Ibrahim Khaled Ibrahim Deek (14); Ramzi Najib Diab Mansour (15); Ala' Saleh Salman Abu Hindi (10); Mohammad Salem Isma'il Abu T'eimeh (12); Ra'fat Zaki Abdul Hadi Aqal (16); Fares Mohammad Rasmi Ramadan Kurdi (1); Mohammad Mohammad Hussein Ghoul (13) and Ahead Hassan Ali Kurdi (10); Muayyad Faleh Saleh Mahmoud (17); Isma'il Hamdan Barka Obeid (16); Amin Mohammad Abdul Karim Ammar (12); Ahmed Abdullah Ahmed El Zalameh (17); and Hazim Mohammed Mohammed Migdad (15);

(b) Further cases transmitted by the Special Rapporteur concerned the following persons: Bilal Mohammad Suleiman Khuzamymiyeh; Najah Abu Dallal; Hani Mohammad Hasan Mu'ammar, Ahead Hamad Salameh Abu Aa'alik, Mohammad Mahmud Mohammad Bahader and Ayed Salim Deeb Habet; Jum'a Farhan Obeid Abu Muheisen and Yusef Farhan Obeid Abu Muheisen; Fuad Isma'il Yusef Timraz; Awni Nayef Mohammad Mqous; Kamal Yusef Darwish Aslan; Ya'qub Yusef Mohammad Hussein Mutawe; Hatem Yaqin Yacoub Othman Muhtaseb and Raed Yuesf Abdul Qader Zu'rob; Ragheb Ziad Ragheb; Yusef Ibrahim Mohammad Abu Rahmeh; Mahmoud Abdul Raouf Mahmoud Ghandour; Ibrahim Mohammad Abdul Razzaq; Raed Yahya Deeb Qosa; Hassan Mohammed Jmi'an El Soufi; Mo'mar Saleh Hussein Al Mubayed; Ali Mohammed Ahmed El Farra; Nidal Ramadan Mohammed Awaad; [illegible] Khalid Serhan Abu El Reesh and Fared Yousef Ibrahim Imtear; Ashraf Mohammed Ahmed Khaleel; Fadil Abedalla Mahomud Rihan; Abass Khader Said El-Saedi; Fareed Mohamed Mohamed El-Chair; and Iyad Abed El-Karem Abed El-Fattah El-Hinwi;

(c) Six Fatah members, Ahmed Abu Ibteihan, Jamal Abdel Nabi, Nahedh Uda, Anwar Maqoussi, Majdi Ubeid and Abdel Hakim Shamali, were allegedly killed by Israeli undercover units in an operation allegedly aimed at their elimination. According to the reports received, no attempts were made to arrest the men. One case referred to the death of Ayman Nassar, reportedly due to the consequences of a smoke bomb used by military personnel to force him out of a hide-out, for which he had not received adequate treatment while in custody.

193. At the time the present report was finalized, no replies had been received from the Government.

Observations

194. The Special Rapporteur wishes to express deep concern at the persistent reports of violence in Israel and the occupied territories. Information regarding excessive and arbitrary use of force, which has been received by the Special Rapporteur on a continuous basis during the past three years, suggests the existence of a pattern of abuse of force. Despite moves towards a peace settlement, this shoot-to-kill policy appears to continue unabated. To the Special Rapporteur's knowledge, there have been no attempts at systematic investigations or prevention of violations of the right to life on the part of the security forces. The Special Rapporteur urges the Government to conduct exhaustive and impartial investigations into all alleged violations of the right to life, with a view to identifying those responsible and punishing them, and to grant adequate compensation to the victims.

195. Reports of killings of members of the Israeli security forces and indiscriminate attacks causing the deaths of numerous civilians by members of Palestinian organizations, particularly Hamas, are also most disturbing. The Special Rapporteur appeals to the Palestinian authorities to do their utmost to prevent such killings. Finally, the Special Rapporteur calls on both sides to continue their efforts towards peace and protection of human rights, and to take decisive action against all those responsible for actions which can only be detrimental to the peace process.

Italy

196. The Special Rapporteur transmitted to the Government the case of Antonio Morabito, who was reported to have died in the custody of Turin police on 18 December 1993, allegedly as a consequence of torture. On 14 November 1994, the Government informed the Special Rapporteur that Antonio Morabito, who was HIV-positive and in a poor state of health, had died while being transferred to hospital one hour after his arrest by the police on suspicion of theft. After due investigation of the case, the Public Prosecutor requested the committal for trial of two police officers belonging to the squad that arrested Antonio Morabito on charges of manslaughter. The Government also stated its view that whenever the death of a person in custody could be attributed to public officials, police officers, penitentiary guards or the like, and the State takes appropriate action to submit to trial any such official, the death cannot be qualified as extrajudicial, summary or arbitrary execution.

Observations

197. The Special Rapporteur thanks the Government for the information provided in reply to his communication. With regard to the Government's concern about the qualification of a case as extrajudicial, summary or arbitrary execution,

he wishes to point out the following: the mandate entrusted to him by the Commission on Human Rights includes all violations of the right to life. When he receives allegations from credible sources that such violations are imminent, the role of the Special Rapporteur is to alert the authorities and call on them to provide the necessary protection. Where such violations have already taken place, it is incumbent on the Special Rapporteur to monitor how Governments comply with their obligation under international law to conduct exhaustive and impartial investigations with a view to clarifying the facts and identifying those responsible, to bring them to justice and punish them, to provide adequate compensation to the victims or their families and to prevent the recurrence of such violations. If a Government fulfils this obligation in a satisfactory way, the Special Rapporteur will report thereon to the Commission on Human Rights and consider the case as closed.

Japan

198. The Special Rapporteur transmitted to the authorities the case of Kawanaka Tetsuo, reportedly executed in Osaka in March 1993 after spending 13 years on death row. According to the information received, he was mentally ill and his condition had deteriorated in the months preceding his execution. On 16 November 1994, the Government provided a general explanation of Japanese law and practice in reply to these allegations, while pointing out that no information on specific cases was disclosed, inter alia in order to protect the rights, honour and privacy of the persons concerned. The Government informed the Special Rapporteur that the death sentence, like all sentences, is the result of a judicial decision reached in accordance with the procedures of Japan's adversarial three-tiered legal system. For death penalty cases, an additional review of the final court decision by the Minister of Justice was provided for under the Japanese Code of Criminal Procedure, which also stipulates that the execution of a person in state of insanity shall be stayed by order of the Minister of Justice. The Government concluded that, as a consequence, there was no possibility whatsoever that an extrajudicial, summary or arbitrary execution could take place in Japan.

Observations

199. The Special Rapporteur wishes to thank the Government for the information provided. He would like to point out, however, that the existence of legislation providing for full fair trial guarantees and safeguards, while certainly to be welcomed, does not in itself exclude the possibility of the occurrence of extrajudicial, summary or arbitrary executions in any given country. Rather, it is the compliance with the rights and guarantees of due process, as contained in the pertinent international instruments, which is to be verified in each case where a breach of these standards is alleged.

Kazakhstan

200. The Special Rapporteur sent an urgent appeal to the Government expressing concern at death sentences reportedly imposed on Mr. Shtyrkhunov and Mr. Puchkov. Both men were said to have appealed to the President for clemency. However, as the carrying out of death sentences was allegedly not automatically suspended for the duration of the clemency procedures, it was feared that their execution was imminent (24 March 1994). On 11 April 1994,

the Government replied to the urgent appeal, informing the Special Rapporteur that the death sentences would be carried out only after the adoption of a decision by the President of the Republic. The Government further pointed out that, in accordance with the Decision of the President of the Republic of Kazakhstan of 25 January 1992 "On clemency procedure in the Republic of Kazakhstan", the granting of clemency was considered by the President irrespective of whether the individual sentenced to death had or had not petitioned for clemency.

Follow-up

201. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked about the further evolution of the two cases.

Kuwait

Information received and communications sent

202. As in the past, the Special Rapporteur received a number of reports expressing concern at violations of internationally recognized fair trial standards in proceedings leading to the imposition of capital punishment. Such allegations referred to restrictions in access to lawyers and limited appeal procedures. It was also reported that complaints of torture, allegedly used in order to extract confessions, were not properly investigated. In an urgent appeal sent on 7 July 1994, the Special Rapporteur expressed concern at reports of a death sentence imposed on Ra'ad 'Abd al-Amir 'Abbud al-Asadi and five others, convicted by the State Security Court of participating in an alleged assassination attempt against the former President of the United States of America, George Bush. According to the information received, during their trial, the defendants were denied the right to be represented by a lawyer at all stages of the proceedings, and that their right to be presumed innocent had been jeopardized by public statements allegedly made by the Public Prosecutor during a press conference.

Communications received

203. On 14 October 1994, the Government replied to the Special Rapporteur's urgent appeal of 7 July 1994, providing him with information on the procedural guarantees and safeguards for defendants in criminal proceedings contained in the Kuwaiti Constitution and Code of Criminal and Trial Procedure, as well as special safeguards contained in Kuwaiti legislation in cases of death sentences and their enforcement, including an automatic appeal procedure, in case no appeal has been lodged by the convicted persons. In cases of death sentences, the Court of Cassation must consider all aspects of the form and content of the judgement. Death sentences cannot be carried out before ratification by the Amir, who is empowered to grant pardons or declare amnesty. In the case in question, the Government informed the Special Rapporteur that five barristers were appointed by court, while one person chose a defence counsel. All six defendants were thus able to avail themselves of the services of defence counsels. At the time of the reply, the judgement was being considered by the Court of Cassation. Fears that they might face summary execution were therefore unfounded.

Follow-up

204. On 3 December 1993, the Government provided the Special Rapporteur with information complementing an earlier reply and giving additional details concerning the acquittal of Ghaleb Abd al-Majid al-Turki, who had been reported to be at risk of execution (see E/CN.4/1994/7, paras. 402-403).

Observations

205. The Special Rapporteur thanks the Government for the detailed information provided. He encourages the authorities to ensure full implementation of the safeguards and guarantees contained in the law. He also calls on them to carry out investigations into all cases where a breach of fair trial standards, as contained in the pertinent international instruments, is alleged. In accordance with the procedure established for his mandate, the contents of the reply were transmitted to the source of the allegations for comments and observations.

Kyrgyzstan

206. The Special Rapporteur sent two urgent appeals to the Government. In the first such appeal, he expressed concern in response to allegations according to which Bakir Tanikulov was sentenced to death after trial proceedings in which he may not have been granted adequate time to prepare his appeal. In the cases of Andrei Arazov and Sultan Kaibzhanov, it was alleged that the only evidence used against them for convicting them of murder and sentencing them to death were confessions made by them to law enforcement officials during interrogations. During the trial hearings, both reportedly retracted these confessions, claiming that their interrogators had forced them to confess by means of threats and physical violence (29 April 1994). Further to these allegations, the Special Rapporteur addressed the authorities after being informed that the Clemency Commission had upheld Andrei Arazov's petition for clemency and that his death sentence had been commuted by the President of the Republic to 20 years' imprisonment. The Clemency Commission, however, was believed not to have granted clemency to Sultan Karibzhanov, and it was unclear whether the President had signed the execution order (28 September 1994). By the time the present report was finalized, no replies had been received from the Government.

Lebanon

207. The Special Rapporteur sent an urgent appeal to the Government after being informed of death sentences handed down by the Court of Justice on 'Abd al-Karim Hujayj, Mohammad Za'tar and Nehmeh Hammadi, in the case of the latter allegedly *in absentia*. According to the information received, the Court of Justice tries certain cases referred to its jurisdiction by presidential decree, usually if matters affecting the security of the State are involved. Allegedly, defendants before this court do not have a right to appeal against its verdicts (19 April 1994). The Special Rapporteur also transmitted the case of Fawzi al-Rasi, a member of the Lebanese armed forces, reportedly tortured and killed during interrogations on the premises of the Ministry for Defence in Yarzeh. To date, no reply has been received from the authorities.

Observations

208. The Special Rapporteur is concerned at the apparent restrictions on the right to appeal of defendants before the Court of Justice. Even though, according to the information received, no death sentence can be carried out before the Commission des grâces has been consulted and approval given by the President, the right to appeal before a higher tribunal against conviction and sentence must be safeguarded. The Special Rapporteur calls on the Government to review the procedures for trials before the Court of Justice accordingly.

Liberia

209. As in former years, the case of Liberia may serve as an example for a situation where it is known that numerous violations of the right to life take place without there being any mechanisms in place for victims or their families to seek redress and protection, but where the Special Rapporteur does not receive reports or allegations that would permit him to act within the framework of his mandate. Furthermore, the Special Rapporteur is not aware of any follow-up to the investigation carried out by a panel of experts mandated by the Secretary-General to investigate one particularly serious case of violations of the right to life in Liberia, the massacre of nearly 600 displaced persons at a camp at Harbel. Similarly, he has not received any information as to the evolution of attempts to create a human rights component within the United Nations Observer Mission in Liberia (UNOMIL). In early 1994, the Special Rapporteur had expressed his interest in conducting a visit to Liberia and assisting in evaluating the possibilities for human rights monitoring. There has been no reaction to date.

Malaysia

Communications received

210. On 27 January 1994, the Government replied to concerns transmitted by the Special Rapporteur in 1993 regarding the alleged presumption of guilt contained in Malaysia's Dangerous Drugs Act, 1952 (see E/CN.4/1994/7, paras. 425-426 and 428). The Government refuted these allegations and pointed out that, like under any other law in Malaysia, persons accused under the Dangerous Drugs Act were presumed innocent until proven otherwise. The Government also informed the Special Rapporteur that cash rewards to informers and agents provocateurs were provided for in article 42A of the Act, their payment being decided upon by the Director General of the Department of Customs and Excise, as deemed necessary, for the cooperation and assistance given in the detection or investigation of cases under the Act or in relation to any raid carried out under the Act. The Government further stated that the death penalty, too, was provided for by the Act. It was confined to traffickers in dangerous drugs and was applied uniformly in all cases.

Follow-up

211. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided. In the same letter, however, he expressed concern at provisions contained in the Dangerous Drugs Act, 1952, which clearly lay the burden of proof upon the defendants. Thus,

article 37 (a) stipulates that any person who is found to be in possession of a certain amount of different types of dangerous drugs, as defined in the First Schedule of the Act, otherwise than in accordance with the authority of the Act or any other written law, "shall be presumed, until the contrary is proved, to be trafficking in the said drug". According to article 39B, persons who, on their own behalf or on behalf of any other person, traffic in a dangerous drug; offer to traffic in a dangerous drug; or do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug, "shall be guilty of an offence against this Act and shall be punished on conviction with death". The fact that under the Act evidence provided by agents provocateurs, who are often police or customs officers, is admissible (art. 40A (2)), and that rewards are authorized to be paid for such evidence (art. 42A), increased the Special Rapporteur's preoccupation. He asked the authorities to provide him with additional information, particularly about the safeguards in place to guarantee that, as stated by the Government in its letter, persons charged under the Act were presumed innocent until proven otherwise.

Observations

212. As stated in his letter to the Government, the Special Rapporteur remains concerned that defendants accused under the Dangerous Drugs Act, 1952 (revised in 1980), and particularly those who, upon conviction, face the death penalty, do not fully benefit from fair trial guarantees as contained in the pertinent international instruments. The articles cited above are of particular relevance in this regard. The Special Rapporteur therefore reiterates his call on the Government to review its anti-drug-trafficking legislation so as to avoid any doubts as to the presumption of innocence for those tried under the Act. He would also recommend the revision of the provisions regarding cash rewards for agents provocateurs, and the exclusion of the testimony of any person who has received, or is eligible to receive, a reward for having provided information in relation to the proceedings in which he or she testifies.

Mali

213. The Special Rapporteur transmitted to the Government allegations he had received according to which Hamma Ag Mohammed, Erless Ag Koti, Al Hassan Ag Taghalit and nine unidentified persons, all civilians and members of the Tuareg ethnic group, were killed in April 1994 by members of the Malian armed forces, reportedly in reprisal for the killing on the previous day of two soldiers by former Tuareg fighters who had joined the army.

214. On 4 August 1994, the Government informed the Special Rapporteur that despite a number of steps taken to pacify the northern regions of the country, where armed confrontations between government forces and the coalition of Tuareg forces Mouvements et Fronts Unifiés de l'Azawad (Unified Fronts and Movements of Azawad, MFUA), had taken place for the past three years, the security situation continued to suffer under attacks from Tuareg rebels. As a consequence, the Government was obliged to reinforce the presence of the armed forces in the area. Some of the former MFUA combatants, who had been integrated into the army in 1991, reportedly deserted and committed acts of violence against their former colleagues and civilians.

Observations

215. The Special Rapporteur calls on the Government to continue efforts towards better protection of the right to life. In this regard, he underlines the importance of ensuring that security forces personnel act within the restrictions and constraints imposed upon the use of force and firearms by the pertinent international instruments. The Special Rapporteur urges the authorities to conduct exhaustive and impartial investigations into all allegations of excessive or arbitrary use of force and punish those responsible. The Special Rapporteur also recommends that the distribution of arms among the civilian population be restricted and kept under tight control. Finally, the Special Rapporteur appeals to the Government and the MFUA to continue efforts towards peace and reconciliation and to do their utmost to prevent any acts that might be detrimental to this endeavour.

Mexico

Information received and communications sent

216. Most of the reports and allegations received in 1994 referred to violence in the context of the armed uprising of the Ejército Zapatista de Liberación Nacional (Zapatista National Liberation Army, EZLN) and its repression by security forces in the State of Chiapas at the beginning of the year. Some 2,500 members of the EZLN reportedly took up arms on 31 December 1993 in protest against extreme poverty, underdevelopment and discrimination against the indigenous population of the area. The EZLN gained control of several towns in the State of Chiapas. After several days of heavy fighting between the EZLN and government troops, a cease-fire was declared on 12 January 1994. However, attacks were said to continue during the days following the cease-fire. During the period of armed confrontations and in its aftermath, civilians suspected of being members or supporters of the EZLN were said to be extrajudicially executed by the security forces. Medical personnel and persons linked with the Church were said to have been targets of harassment and death threats for treating people injured during armed confrontations. Death threats were also reported against representatives of indigenous organizations and human rights associations, as well as trade unionists, apparently for their role in the negotiations between the EZLN and the Government.

217. The Special Rapporteur also received reports of violations of the right to life in the context of the general elections of 21 August 1994, as well as allegations of violence directed against members of indigenous communities. Several sources expressed concern that members of the security forces responsible for human rights violations continue to enjoy virtually total impunity.

218. The Special Rapporteur sent six urgent appeals to the Government. Three urgent appeals concerned allegations relating to the events in Chiapas:

(a) The Special Rapporteur expressed concern at reports of a large number of extrajudicial executions, according to some sources more than one hundred. Fears had also been expressed for the lives of persons detained by the security forces for their membership, or suspected membership, in the EZLN

(17 January 1994). The Special Rapporteur sent another urgent appeal after receiving reports of the killing of Mariano Pérez Díaz, leading member of the Consejo Estatal de Organizaciones Indígenas y Campesinas de Chiapas (State Council of Indigenous and Peasant Organizations of Chiapas, CEOIC), and allegations of death threats against other indigenous leaders and members of human rights organizations, including Antonio Hernández, Margarito Ruiz and the bishop of San Cristóbal de las Casas, Samuel Ruíz, as well as death threats against nuns working at the hospital of Altamirano (16 March 1994). A third urgent appeal concerned alleged death threats against André Aubry, coordinator of the Instituto de Asesoría Antropológica para la Región Maya (Institute for Anthropological Advice in the Maya Region, INAREMAC) based in San Cristóbal de las Casas, his wife Angélica Sara Inda and two secretaries of the institute, Rafaela López Morales and Matilde Moreno (13 June 1994);

(b) The Special Rapporteur sent another urgent appeal after being informed of fears for the lives and physical integrity of members of the Jesuit order in Mexico, after death threats had appeared on posters in Mexico City. Jesuits were also said to have received threatening phone calls after they had been accused in newspapers of being involved in guerrilla activities (16 August 1994). Fears had been expressed for the lives of members of the political party Partido de la Revolución Democrática (Democratic Revolution Party, PRD), after the killing of Roberto Hernández Paniagua and the detention of Enrique Murias, both municipal party officials (14 September 1994);

(c) Finally, the Special Rapporteur urged the authorities to take all necessary measures to protect the lives and physical integrity of members of the Nahua and Otomí indigenous communities, after two of their leaders, Rolando Hernández Hernández (17) and Atonio Hernández Hernández, were abducted by members of the security forces and later found dead (26 September 1994).

219. The Special Rapporteur also transmitted to the Government allegations related to the violent events in Chiapas in early January: the killing of George Solis and Eduardo Gómez, reportedly found dead after having been detained by police in Las Margaritas; Severiano, Sebastián and Hermelindo Santiz Gómez, reportedly detained and abducted in a military ambulance in early January in Morelia, Altamirano, and feared to have been executed. A further case transmitted by the Special Rapporteur concerned the alleged extrajudicial execution of Luis Martínez Rivera in Morelos, in August 1994.

Communications received

220. On 26 January 1994, the Government replied to the Special Rapporteur's urgent appeal of 17 January 1994, informing him that the National Human Rights Commission had established offices in different cities in Chiapas. More than 170 complaints had been received and were being investigated. Some of these complaints concerned alleged extrajudicial, summary or arbitrary executions at the hands of security forces personnel. On 24 March 1994, the Government forwarded a copy of the report presented by the Chairman of the NHRC in February 1994, containing an account of the investigations carried out. According to this report, 218 complaints had been received, 76 of which were directed against the Mexican army and 20 against the EZLN; 56 complaints concerned homicides, 80 torture and 427 requests to find the whereabouts of persons thought to have disappeared. The NHRC had established that air

attacks had been carried out in areas inhabited by civilians. It had also established that the army had been responsible for the killing of 11 civilians at hospital facilities in Ocosingo. On 5 May 1994, the Government provided a reply to the Special Rapporteur's urgent appeal of 16 March 1994 and informed him that the NHRC had initiated investigations into the killing of Mariano Pérez Díaz, although no complaint had been received concerning the case.

221. On 24 August 1994, the Government replied to the Special Rapporteur's urgent appeal of 13 June 1994, informing him that the NHRC had opened inquiries into the death threats against André Aubry, his wife and two secretaries of INAMERAC. The Public Ministry was also investigating the death threats, the authors of which had not yet been identified. With regard to reports of death threats against members of the Jesuit order in Mexico, the Government informed the Special Rapporteur that, during a meeting with Jesuit representatives, President Carlos Salinas de Gortari had announced thorough investigations into acts of harassment reported by the Jesuits and condemned the campaign of calumny against the order. He also assured them that no official institution was behind this campaign, and that no official document linked them in any way with the guerrillas. On 6 September 1994, the Government informed the Special Rapporteur that George Mariano Solis López and Eduardo Gómez Hernández were arrested by police on 16 January 1994 and then detained by members of the military. Investigations had been opened. The Government pointed out that the NHRC did not have enough evidence to prove human rights violations in this case, as both police and military commanders denied having arrested or detained any civilians, and residents of the area refused to give testimony for fear of reprisals. In the same reply, the Government informed the Special Rapporteur that forensic examinations could not determine whether the human remains found in February 1994 belonged to Severiano, Sebastián and Hermelindo Santis Gómez, despite the participation in such examinations of experts from the NGO Physicians for Human Rights. The NHRC had received a complaint concerning the case and was continuing its investigations. In both cases, the families of the victims were granted indemnification by the Fondo de Apoyo para Viudas y Huérfanos en Areas de Conflicto (Support Fund for Widows and Orphans in Conflict Areas, FAPIAC).

222. In reply to the allegations concerning the killing of Luis Rivera Martínez, the Government informed the Special Rapporteur in a letter of 25 November 1994 that the NHRC had not received any complaint about the case. The Government also pointed out that the military officer under whose command the killing was said to have been committed, had been imprisoned in a high security prison in another part of Mexico since 1993, after having been convicted of murder and other crimes.

Follow-up

223. On 24 November 1993, the Government provided the Special Rapporteur with information in reply to the latter's follow-up letter of 22 September 1993, in which he had asked for specific additional details concerning investigations into cases transmitted in 1992 (see E/CN.4/1994/7, para. 439). On 1 December 1993, the Government provided the Special Rapporteur with information on a number of cases transmitted in 1993 (see E/CN.4/1994/7, para. 436 (b)). Investigations into these cases had been

opened by the NHRC. At the time of the reply, the authors of the killings of Mateo Vargas Nava, Isidro Vargas Nava and Bulmaro Vargas Najera had not yet been identified. Penal proceedings were opened in the case of Sabino Díaz Osorio and Rodrigo Javier Gómez Zamorano, and the arrest of two persons presumed responsible for their killings was requested. The NHRC had not found any information concerning the killing of José Ramos Muñoz.

224. On 23 September 1994, the Special Rapporteur thanked the Government for the information provided. He requested additional details with regard to the planned legislative reform concerning reparation payments in cases of human rights violations. According to the information received, this reform was to have been debated in Parliament in December 1993. The Special Rapporteur also asked to be informed of the progress of the investigations initiated by the NHRC. With regard to the violent events in Chiapas and the investigations conducted in their aftermath, the Special Rapporteur inquired whether any judicial or disciplinary proceedings had been opened with regard to the members of the security forces found to be responsible for human rights violations by the NHRC. He also asked to be informed of steps taken to prevent the recurrence of similar outbreaks of violence.

Observations

225. The Special Rapporteur wishes to thank the Government for its willingness to cooperate with his mandate, expressed in numerous replies. However, he remains concerned at persistent reports of violations of the right to life in the country, particularly in connection with excessive and arbitrary use of force by law enforcement officials during military operations or directed against persons in detention, and at the fact that recommendations by the NHRC often appear not to be followed. The Special Rapporteur calls on the authorities to ensure that such recommendations are implemented. The fact that possible witnesses continue to refuse to collaborate with the NHRC out of fear for their safety is most worrying. The Special Rapporteur urges the Government to take all necessary measures for the protection of witnesses. He also encourages the Government to ensure that those responsible for human rights violations be brought to justice and to pursue the necessary legislative reforms so that victims of such violations or their families may receive adequate compensation.

Morocco

226. The Special Rapporteur transmitted to the Government the case of Mounir Azaage, who died while in police custody in Tangier on 11 October 1993. Allegedly, injuries on his forehead suggested that his death may have been caused by violent treatment. At the time the present report was finalized, no reply had been received from the Government.

Myanmar

227. The Special Rapporteur received reports and allegations of violations of the right to life in Myanmar. Most of these reports referred to extrajudicial executions of civilians by members of the Myanmar army. Thus, the Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution by personnel of

the Myanmar army, of the following persons: Na Chit Khin and Nai Gyo, reportedly killed in July 1993; an unidentified villager, reportedly killed by an identified army major in Aleywa in August 1993; Saw Doh Raw and his daughter Naw Pu Pu, reportedly shot dead near Ler Hbaw Kler Ber in August 1993; Khun Thi Ha and an unidentified person, reportedly shot dead at Lu Paw market in February 1994. The Special Rapporteur also addressed an urgent appeal to the Government after being informed of a death sentence imposed on Kin Maung Oo, alias "Let Kut", allegedly after a trial in which the defendants did not fully benefit from the guarantees and safeguards provided for in pertinent international instruments (27 January 1994). With regard to an in-depth analysis of the human rights situation in Myanmar, reference is made to the report presented to the Commission on Human Rights by the Special Rapporteur on the human rights situation in Myanmar, Mr. Yozo Yokota (E/CN.4/1995/65).

228. On 23 February 1994, the Government replied to the Special Rapporteur's urgent appeal of 27 January 1994, informing him that Kin Maung Oo was part of a group of four pickpockets who stole a wallet from a passenger on a bus trip and killed the passenger when he protested and asked for the wallet to be returned. The four pickpockets were caught in the act and tried for murder by the Yangon Division Law Court. They were provided defence counsel and were given a fair trial. They also exercised their right to appeal.

Follow-up

229. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided in the above-mentioned letter and asked for some further clarifications, inter alia, with regard to the nature and composition of the court before which the defendants had been tried; the court before which they had filed appeals; whether they had the possibility to seek pardon, clemency or commutation of sentence; and whether the death sentence had actually been carried out. With regard to information provided by the Government in reply to allegations transmitted earlier (see E/CN.4/1994/7, para. 452), the Special Rapporteur asked to be informed of the steps and procedures to investigate into deaths of detainees and prisoners while in detention, as prescribed by the law.

Observations

230. The Special Rapporteur wishes to thank the Government of Myanmar for the information provided and the willingness to cooperate with his mandate thus shown. He remains, nevertheless, concerned at persistent reports of arbitrary and excessive use of force by members of the security forces, who seem to enjoy virtual impunity. As concerns the death penalty, the Special Rapporteur would like to emphasize once again the importance of full fair trial guarantees in proceedings leading to the imposition of capital punishment and the need to verify the respect for these guarantees in each case where a breach of internationally recognized fair trial standards is alleged. The Special Rapporteur also calls on the Government to carry out exhaustive and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions, identify those responsible and bring them to justice, grant adequate compensation to the victims or their families and take the necessary steps to prevent the recurrence of violations of the right to life.

Nepal

231. The Special Rapporteur sent an urgent appeal to the Government after receiving reports of death threats against Gopal Siwakoti and Gopal Krishna Siwakoti, both officers of the International Institute for Human Rights, Environment and Development (INHURED International), reportedly after having filed a petition with the Supreme Court against a controversial hydroelectric project (25 January 1994). The Special Rapporteur also transmitted to the Government the case of journalist Lokendra Kumar Burathoki, reportedly killed by police for having written articles critical of certain politicians.

232. On 21 February 1994, the Government replied to the Special Rapporteur's urgent appeal of 25 January 1994 and informed him that the concerned authorities had been instructed to arrange for the necessary protection and that the necessary protective measures had been taken.

Follow-up

233. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked for some additional details concerning the type of measures adopted to provide security to Gopal Siwakoti and Gopal Krishna Siwakoti.

Nicaragua

Follow-up

234. On 23 March 1994, the Government provided the Special Rapporteur with information concerning allegations transmitted in 1993 (see E/CN.4/1994/7, paras. 461-462). The events at the Ingenio San Antonio sugar company were described as an illegal strike, in which some of the strikers resorted to the use of force against members of the national police who were trying to restore order. The strikers also set fire to some sugar cane plantations. The calcinated body of one of them was found after the fire. The exact cause of his death could not be determined. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked about the progress of the investigations.

Niger

235. The Special Rapporteur transmitted to the Government allegations he had received concerning the killing, by members of the security forces, of two Tuareg civilians, Warghiss Founta and Karbey Moussa, in December 1993 near Agades. At the time the present report was finalized, no reply had been received from the Government.

Nigeria

Information received and communications sent

236. The reports and allegations brought to the attention of the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Nigeria. Most of these

reports referred to acts of violence directed against members of the Ogoni ethnic community in the context of land conflicts between different ethnic groups and protests by the Ogoni people against environmental damage and inadequate compensation for destruction of land and crops by international oil companies operating in Ogoniland. In April 1994, the River State authorities reportedly called hundreds of police and military personnel into Ogoniland to restore law and order. The Special Rapporteur was also informed that in April 1994 a special court, the Civil Disturbances Tribunal, was set up pursuant to the Special Tribunal Edict of 1994 (Cffences Relating to Civil Disturbances). This special court was said to have been empowered to hand down death sentences, not only for offences related to the unrest in Ogoniland but also for crimes previously not punishable by death such as attempted murder.

237. The Special Rapporteur sent two urgent appeals to the Government. He expressed concern at reports of the killing of about 20 persons in clashes between members of the Ogoni and Ndoki ethnic groups, the latter allegedly being supported by the security forces, in early April 1994. In the same urgent appeal, the Special Rapporteur referred to information he had received concerning the above-mentioned special court, and, in particular, fears that the broad powers given to this court might be used to impose the death penalty on Ogoni detainees after hasty and unfair trials (17 May 1994). Renewed military attacks against Ogoni villages were reported to have occurred during the first two weeks of June 1994, leading to the killing of at least 40 civilians. Fears were expressed for the lives of a large number of others who were reported to have been detained, among them Ameh Ebute, Polycarp Nwite and O.A. Okoroafor, former members of the Senate and House of Representatives, who were said to have been charged with conspiring to remove the Government and treason, offences punishable by death (16 June 1994).

238. The Special Rapporteur also transmitted to the Government allegations he had received concerning the killing of Legbosi Afugbara, Legbara Setok, Lebari, Soko Gbinue and 52 other persons whose identities are not known, all of them said to belong to the Ogoni ethnic community, by soldiers of the "internal security unit" set up by the military authorities of River State during an operation in a number of Ogoni villages in June 1994.

Communications received

239. On 18 July 1994, the Government replied to the Special Rapporteur's urgent appeal of 16 June 1994, informing him that those detained had been arrested on the basis of warrants and had since appeared before the competent jurisdictions. Efforts were being made to hold those detained in the best available detention conditions and that there was no arbitrariness in their treatment. With regard to the Ogoni issue, the Government pointed out that Ogoniland had been the scene of intense violence and destruction of lives and property during the past months. In view of the seriousness of the situation, the Government had embarked on a thorough investigation of the developments in the area. On 4 October 1994, the Government acknowledged receipt of the Special Rapporteur's letter containing the allegations mentioned in paragraph 238 above.

Follow-up

240. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for information provided and requested some additional details with regard to the investigations into violence in Ogoniland. In reply to his request for additional details about the investigations and other measures implemented by the authorities to improve the situation in Ogoniland and prevent further acts of violence, the Government informed the Special Rapporteur in a letter dated 18 November 1994 that the investigations were being carried out by the Federal Intelligence and Investigation Bureau (FIIB), whose report would be referred to the Director of Public Prosecution for vetting prior to prosecution in public trials. Other measures to improve the situation in Ogoniland included the deployment of adequate law enforcement agencies; the presence of the Federal Environmental Protection Agency and an Oil Mineral Producing Areas Development Commission; a visit to the area by a ministerial fact-finding team; and the convening of a National Constitutional Conference to address all grievances held by the different ethnic and social groups in the country.

241. In addition, in a letter of 10 November 1994, the Government informed the Special Rapporteur that fears for the life of Ken Saro Wiwa (see E/CN.4/1994/7, para. 468) were unfounded as he was given the necessary medical attention and free access to his family and attorney during detention for his involvement in the killing of four Ogoni leaders.

Observations

242. The Special Rapporteur appreciates the willingness to cooperate shown by the Government. However, the persistent reports and allegations of violations of the right to life of members of the Ogoni ethnic group are most worrying. The Special Rapporteur is particularly concerned at the establishment of a special court to curb unrest and insecurity in the area. The extending of the scope of the death penalty to offences previously not punishable by death is clearly contrary to the tendency, expressed by the General Assembly and the Human Rights Committee on repeated occasions, towards a gradual reduction and eventual abolition of capital punishment. In addition, special jurisdictions, especially when set up to deal speedily with situations of unrest, very often entail serious restrictions of the safeguards and guarantees for defendants, particularly when they face the death penalty. The Special Rapporteur therefore calls upon the authorities of Nigeria to ensure that proceedings before the special tribunal conform to the standards for fair trial procedures as contained in pertinent international instruments. He also urges the authorities to take the necessary steps to assure that security forces, in operations aimed at restoring peace and order, fully abide by the norms and regulations governing the use of force by law enforcement officials, and that those employing excessive use of force be brought to justice, in conformity with international law.

Pakistan

Information received and communications sent

243. The reports and allegations brought to the attention of the Special Rapporteur indicate that violations of the right to life continue to occur in Pakistan. Most of these reports refer to deaths of detainees while in the custody of the police, particularly in the provinces of Sindh and Punjab. In many cases, the victims of such killings were reported by the police to have died during "armed encounters" between the security forces and dangerous criminals. According to the information received, however, most of those killed showed signs of torture. Concern was expressed that the authors of the killings had not been brought to justice.

244. The Special Rapporteur transmitted three urgent appeals to the Government. Fears were expressed for the life and physical integrity of Bashir Qureshi, reportedly in a precarious state of health after being arrested, and allegedly tortured, by members of the military in January 1994 (4 February 1994). The Special Rapporteur also expressed concern at reports of armed attacks against the Ahmadiyya community in Lahore in early February 1994, during which two persons, Rana Riaz Ahmad and Ahmad Nasrullah, were said to have been shot by members of an armed Islamic group. The police reportedly failed to provide protection to the members of the community or adequately investigate the attacks and, allegedly, refused to register complaints by the victim's families and witnesses to the attacks (15 March 1994). The Special Rapporteur also urged the authorities to take adequate steps to protect the lives and physical integrity of inmates at Karachi Central Jail, where prisoners were said to be held in life-threatening conditions due to overcrowding, lack of medical facilities and unhygienic conditions (29 September 1994).

245. The Special Rapporteur also transmitted to the Government allegations he had received concerning the killing of Manzoor Masih, a Christian, who was reportedly shot by members of an Islamist party as he left Lahore High Court in April 1994. The following cases concern deaths of detainees while in custody at different police stations: Mujib Aijaz Jatoi; Noor Muhammad Qureshi; Gulioo Machhi; Mohammad Irshad; Niaz Hussain Pathan; Yusuf Jakhrani; Qamruddin, Khadim and Subho Indhar; Nazir Masih; Mazhar Iqbal Bhatti, alias "Safdar Jamil Bhatti", and six other young men. In addition, Bebal Khatton Shirazi was reportedly killed during a joint operation by police and army personnel in December 1992.

Communications received

246. On 4 October 1994, the Government acknowledged receipt of the Special Rapporteur's urgent appeal of 29 September 1994.

Follow-up

247. On 4 February 1994, the Government provided information in reply to an urgent appeal transmitted by the Special Rapporteur in September 1993 (see E/CN.4/1994/7, para. 472), concerning three persons sentenced to death for blasphemy. The Government pointed out that blasphemy laws were not directed

against any religious minority. The three accused had been seen writing blasphemous inscriptions on the wall of a mosque. They were arrested and their case referred to the Additional District and Session Judge of Gujranwala for trial. One of the accused, a 13-year-old boy, was granted bail and released from jail in November 1993.

Observations

248. The Special Rapporteur thanks the Government for the information provided as mentioned above. However, he wishes to express his deep concern at the reports received concerning the killing of one of the three accused, Manzoor Masih. In his urgent appeal of 7 September 1993, the Special Rapporteur had called upon the authorities to ensure the protection of the right to life and physical integrity of the three persons accused of blasphemy. He continues to be concerned, too, at the fact that under the blasphemy legislation in force in Pakistan a 13-year-old could face the death sentence. The Special Rapporteur reiterates his call upon the authorities to revise this legislation so as to make it conform to the international instruments prohibiting the imposition of capital punishment on minors.

249. Moreover, the reports and allegations received concerning deaths in police custody are most disturbing. The Special Rapporteur urges the Government to conduct exhaustive and impartial investigations into all allegations of violations of the right to life and bring those responsible to justice. He also calls on the authorities to see to it that the conditions of detention conform to the standards contained in the pertinent international instruments and do not, in themselves, constitute a threat to the lives and physical integrity of the inmates.

Peru

Information received and communications sent

250. The reports and allegations received by the Special Rapporteur during 1994 indicate that violations of the right to life continue to occur in Peru. As in former years, such reports refer to killings due to abuse of force by law enforcement personnel and members of the *rondas campesinas*, peasant self-defence groups cooperating with the security forces. In a large number of these cases, the victims are peasants suspected of being members or sympathizers of the armed insurgency. Particularly disturbing reports in this regard were received concerning the Huallaga valley in the Peruvian *selva*, where military counter-insurgency operations were said to have caused the death of more than 60 civilians, some of them allegedly after torture, in early 1994. Although the number of attacks by armed insurgents has decreased considerably since the capture of the founder and leader of the *Partido Comunista del Perú "Sendero Luminoso"* (Communist Party of Peru "Shining Path", PCP-SL), Abimaél Guzmán, in September 1992, attacks against and killings of security forces personnel and civilians by its members, as well as by members of the *Movimiento Revolucionario Tupac Amaru* (Tupac Amaru Revolutionary Movement, MRTA) continue to be reported, particularly in the central *selva*.

251. As in the past, concern was expressed that in many cases those responsible for human rights violations were not brought to justice, or that

competence to deal with cases involving violations of the right to life by military or police personnel was claimed, and obtained, by the military courts. In this context, the Special Rapporteur was informed that, on 7 February 1994, the Congreso Constituyente Democrático (Democratic Constituent Congress, CCD) approved a law amending the procedure for the decision of conflicts of competence between the military and the civilian justice systems to the effect that a simple majority of votes in the deciding Chamber of the Supreme Court suffices to determine the competence of either jurisdiction. The new law applied automatically to all proceedings under way at the time of its approval, which included the conflict of competence in the case of the abduction and subsequent killing by military personnel of a professor and nine students of the Universidad Nacional de Educación Enrique Guzmán y Valle, known as La Cantuta, in July 1992 (see in detail E/CN.4/1994/7/Add.2, paras. 55-73).

252. The Special Rapporteur sent seven urgent appeals to the Government:

(a) He called on the authorities to adopt all necessary measures to protect the life and physical integrity of the following persons whose lives were said to be at risk after death threats or attacks, allegedly by members of the security forces: Augusto Zúñiga Paz, a human rights lawyer who had left Peru after a letter bomb attack and series of death threats in 1991 and was returning to the country for several months (13 December 1993); Emma Vigueras, a lawyer employed at La Cantuta and her family (8 April 1994); Mariano Paliza Mendoza, journalist and collaborator of the Asociación Pro Derechos Humanos (APRODEH), reportedly in relation to a radio programme on human rights directed and presented by him (8 April 1994); Ulises Espinoza Sánchez, Governor of Chavín de Pariarca, and parish priest Father Fidelius, allegedly for having filed complaints concerning human rights violations by the military (29 April 1994); Amalia Tolentino Hipolo and her young children, after she witnessed, and denounced, the killing by soldiers of Jesús Vera Vigilio (2 June 1994); Henry Halanoca Hauyta, journalist, reportedly threatened by civilian authorities of Lampa for having dealt with corruption in the municipality in a radio programme (31 August 1994);

(b) In addition, the Special Rapporteur expressed concern after being informed of the new law referred to above governing the decision of conflicts of competence between the military and civilian justice systems. The Special Rapporteur recalled to the Government its obligation under international law to conduct exhaustive and impartial investigations with a view to identifying all those responsible and bringing them to justice. He also reminded the authorities of the conclusions and recommendations dealing with the problem of impunity contained in the report on his visit to Peru in May/June 1993 (15 March 1994).

253. The Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution of the following persons: Juan Ascuy and nine other peasants including minors Mario Vargas Alejo (12), Hernán López Antenaza (14) and Javier López Antenaza (16), by members of a ronda campesina, for not participating in the self-defence group; Luis Alberto Bonifacio Aimituma, by members of the Peruvian army in Lima; Hugo Zapata Gutiérrez, by military and members of a

ronda campesina; Jessica Rosa Chávez Ruíz (17), Pedro Javier Cruz Guzmán and Héctor Rodríguez Rodríguez, by members of the national police; Pedro Herminio Yauri Bustamante; and Víctor Ramírez Arías.

Communications received

254. On 20 April 1994, the Government informed the Special Rapporteur that lawyer Augusto Zúñiga Paz had been provided due protection during his stay in Peru and could carry out a number of public and private activities. On 20 October 1994, the Government replied to the Special Rapporteur's urgent appeal of 31 August 1994 and informed him that no complaints had been received by the military based in Lampa of the alleged death threats against Henry Halanoca Hauyta, and that he should make use of the internal remedies available to him for the protection of his physical integrity. On 24 October 1994, the Government provided a reply to the Special Rapporteur's urgent appeal of 29 April 1994, informing him that charges of disobedience, abuse of authority and exacción had been brought against the military personnel responsible for the attacks in the district of Chavín de Pariarca.

255. In a communication of 14 July 1994, the Government expressed its view that the decrease of allegations during the first six months of 1994 - six cases, in one of which proceedings before the civilian justice system had been initiated - showed a positive and consistent tendency and confirmed the results obtained by the Government's efforts towards pacification of the country in 1993.

256. Finally, on 25 November 1994, the Government informed the Special Rapporteur that, on 31 October 1994, Congress restored the Fiscalías Especiales de Defensoría del Pueblo until the Defensoría del Pueblo is in place and functioning, in conformity with the Political Constitution of Peru.

Follow-up

257. The following replies received from the Government concern allegations transmitted by the Special Rapporteur in 1992 and 1993: on 10 May 1994, the Government informed the Special Rapporteur that José Barletti Pascuales, on whose behalf an urgent appeal had been sent on 7 September 1993 (see E/CN.4/1994/7, para. 489), had been released from detention. On 20 July 1994, the Government informed the Special Rapporteur that judicial proceedings had been opened against police officials for the killing of Zacarias Huamani Pasca and Marcelino Valencia Alvarado (see E/CN.4/1994/7, para. 492 (d)). On 15 September 1994, the Government provided the Special Rapporteur with a copy of a declaration by Juan Luna Rojas (see E/CN.4/1993/46, para. 472 and E/CN.4/1994/7, para. 494 (a)), according to which he was no longer a victim of harassment and therefore did not need any personal protection. On 20 October 1994, the Government informed the Special Rapporteur that the killing of seven persons in Angasmarca (see E/CN.4/1994/7, para. 492 (c)) had been committed by three suspected terrorists. On 24 October 1994, the Government informed the Special Rapporteur that charges had been brought against several persons for the killing of Juan Silva Céspedes (see E/CN.4/1994/7, para. 492 (c)).

258. The investigations and subsequent judicial proceedings into the case of the abduction and subsequent extrajudicial execution of a professor and nine students of La Cantuta were the subject of an exchange of follow-up correspondence between the Special Rapporteur, the Government and the sources of the allegations:

(a) On 30 November 1993, the Government informed the Special Rapporteur that the investigations of the remains found in the graves at Cieneguilla were being carried out. On 21 January 1994, the Government provided a reply to an urgent appeal transmitted by the Special Rapporteur on 26 July 1993, informing him that measures had been taken to protect the life of lawyer Humberto Benítez Rivas who represented the families of the victims of the La Cantuta killings (see E/CN.4/1994/7, para. 489), and that the threats against him had ceased. On 11 April 1994, the Government informed the Special Rapporteur that the Supreme Council of Military Justice had pronounced the following prison sentences against nine members of the Peruvian army: General Juan Rivera Lazo (4 years); Colonel Federico Navarro Pérez (4 years); Major Santiago Martín Rivas (20 years); Major Carlos Pichilingüe (20 years); Captain José Adolfo Velarde (1 year); Suboficial Julio Chuqui Aguirre (15 years); Suboficial Jesús Sosa Saavedra (15 years); Suboficial Nelson Carbajal García (15 years); and Suboficial Pedro Suppo Sánchez (15 years). All nine were also sentenced to pay reparation payments to the families of the victims;

(b) In a letter dated 23 September 1994, the Special Rapporteur transmitted to the Government additional information he had received, according to which not all the military officers involved in the case of La Cantuta had been brought to justice. In particular, several high-ranking officers, who were named by numerous sources as responsible for the planning of the abduction and killing of the 10 victims, have not been subjected to any judicial proceedings. These included several generals of the Peruvian army and personnel of the National Intelligence Service. In this context, it was pointed out that one of the arguments forwarded by the military prosecutor to justify the competence of the military judiciary to hear the case was the fact that the nine officers accused had acted in obedience of orders given to them by superiors. Furthermore, the Special Rapporteur had been informed that the families of the victims had not yet received the reparation payments. The Special Rapporteur solicited additional information from the Government on these issues.

259. In the same letter, the Special Rapporteur also requested additional details with regard to several other replies provided by the Government during 1993 and 1994, in particular as concerns the judicial proceedings opened into several cases of alleged extrajudicial, summary or arbitrary executions.

260. The planned reinstitution of capital punishment under the new Constitution of 1993 was the subject of an urgent communication by the Special Rapporteur to the authorities in September 1994 (see E/CN.4/1994/7, para. 491). The two main areas of concern to the Special Rapporteur were the extension of the scope of the death penalty to cases of terrorism and treason and shortcomings in the rights and guarantees of defendants facing the death penalty in such cases. On 30 November 1993, the Government informed the

Special Rapporteur of certain changes in the anti-terrorism legislation, including the introduction of a second stage of appeal before the Supreme Council of Military Justice; the restoration of the writ of habeas corpus in cases of terrorism and treason; the applicability of unconditional release of persons accused of terrorism during preliminary investigations; and the lifting of the prohibition against lawyers defending more than one person accused of terrorism at any one time. On 6 December 1993, the Government provided the Special Rapporteur with a reply to his communication of 22 September 1994, pointing out that the extension of the scope of the death penalty to the crimes of terrorism and treason was justified on account of the gravity of the phenomenon of terrorism in the country, the need for general prevention and legitimate social defence. The Government also explained its view that this was not in breach of international law, as terrorism in Peru constitutes a fundamental change of circumstances, as provided for in article 4.2 of the American Convention on Human Rights. Furthermore, the Government pointed out that defendants' rights and guarantees were fully safeguarded under the trial procedures in force.

Observations

261. The Special Rapporteur would like to thank the Government for the information provided in reply to his communications. The repeated willingness to cooperate with his mandate thus shown is much appreciated. Nevertheless, the Special Rapporteur remains concerned at persistent allegations of violations of the right to life in Peru. Reports about death threats and acts of harassment against lawyers representing the victims of human rights violations or their families are particularly disturbing. The Special Rapporteur calls on the authorities to take all necessary measures to ensure that lawyers may exercise their functions freely, without being subjected to any form of intimidation, in accordance with the guarantees contained in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana from 27 August to 7 September 1990. The Special Rapporteur is also concerned at death threats against journalists for dealing with human rights issues and statements made by members of Congress to the effect that persons who denounce human rights violations before international organs should be brought to justice for treason.

262. As a result of his visit to Peru in 1993, the Special Rapporteur had identified several areas of concern with regard to violations of the right to life. The reports and allegations received during 1994 indicate that the problems relating to these areas persist. Cases of human rights violations by security forces continue to be dealt with by the military courts. The Special Rapporteur is not aware of any reform initiative to strengthen the civilian justice system and provide it with the necessary resources for proper functioning. The scope of the death penalty has been extended, contrary to the spirit of article 6 of the International Covenant on Civil and Political Rights which tends towards its gradual reduction and eventual abolition, as expressed by the General Assembly and the Human Rights Committee on repeated occasions. While some of the procedural shortcomings have been rectified by a reform of the anti-terrorism legislation in force, a number of limitations on the rights of defendants in cases of terrorism and treason remain (see E/CN.4/1994/7/Add.2, paras. 75-78). Violations of the right to life continue

in the context of peasant self-defence in rondas campesinas. Large parts of the country continue to be under states of emergency, with resulting difficulties of access for those wishing to investigate allegations of human rights violations. The Special Rapporteur wishes to reiterate his recommendations to the Government as contained in his mission report of 1993.

Philippines

263. The reports and allegations brought to the attention of the Special Rapporteur in 1994 indicate that violations of the right to life continued to occur in the Philippines. As in former years, abuse of force by members of the military or police and of the Citizen's Armed Forces Geographical Units (CAFGUs) were said to be the cause of most extrajudicial, summary or arbitrary executions reported. As in former years, it was alleged that those responsible for violations of the right to life are brought to justice only very exceptionally.

264. The Special Rapporteur sent two urgent appeals to the Government, calling upon the authorities to take all necessary steps to protect the lives and physical integrity of human rights activists Sonia Soto, allegedly under threat by men linked to the Philippine National Police (7 March 1994) and Avelino F. Javier, reportedly threatened with death by government agents (14 March 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution of William Rom, Jovito Tuldog, Ernesto Saribay and Antonio and Lolita Pacis.

265. On 3 March 1994, the Government replied to the Special Rapporteur's urgent appeal of 7 March 1994 and informed him that the Philippine Human Rights Commission had received allegations of the same tenor and had opened investigations into the threats.

Follow-up

266. The Government provided replies to some of the cases transmitted by the Special Rapporteur in 1993. According to the information received, Exequito Lasquite (see E/CN.4/1994/7, paras. 507-508 (c)) was killed by two members of the Philippine army in self-defence (17 December 1993); the shooting of Lolita Haz by a CAFGU member (see E/CN.4/1994/7, paras. 507-508 (b)) was purely accidental, and the absence of the mother and husband of the victim at the second and third hearings of the case indicated their interest in an amicable settlement (17 December 1993); investigations into the alleged death threats against Clovis Nazareno (see E/CN.4/1994/7, paras. 506 and 508 (a)) continued (4 January 1994); in the case of the killing of Chris Batan (see E/CN.4/1994/7, para. 507), two members of the CAFGUs were arrested and judicial proceedings were under way (14 April 1994 and 21 June 1994).

267. In a letter of 23 September 1994, the Special Rapporteur asked for additional details on the progress of the investigations under way. The Special Rapporteur also requested information concerning measures taken by the competent authorities to prevent the recurrence of acts of violence by members of the CAFGUs.

Observations

268. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate with his mandate shown by the Government. However, he remains concerned at the persistent reports of human rights violations, including extrajudicial, summary or arbitrary executions, committed by members of the CAFGUs. The Special Rapporteur is not aware of any steps taken to effectively prevent such acts of violence. Furthermore, as pointed out in the Special Rapporteur's letter to the Government of 23 September 1994, even if relatives appear not to show any interest in the prosecution and punishment of the perpetrator, it is the obligation of the Government under several international instruments to carry out independent and impartial investigations to clarify the facts and determine responsibilities, bring those identified as responsible to justice and punish them, provide indemnity to the victims or their families and adopt all such measures as necessary to prevent the recurrence of human rights violations. An amicable settlement of a murder case would be in breach of this obligation under international law. Further, the Special Rapporteur is concerned that investigations undertaken by the Human Rights Commission appear to be ineffectual. He recommends that steps be taken to increase the resources available to it, notably with respect to the protection of potential witnesses.

Portugal

269. The Special Rapporteur sent an urgent appeal to the Government after receiving information according to which the High Court of Macau had endorsed a decision by the Governor of Macau to extradite Antonio Ti Luo, a Bolivian national, to China where he was said to face the death penalty on charges of grave economic offences (15 February 1994). The Special Rapporteur repeated his call on the Portuguese authorities to halt the extradition after the Supreme Court of Macau upheld the earlier decision (19 April 1994). At the time the present report was finalized, no reply had been received from the Government.

Rwanda

270. After his visit to Rwanda in April 1993, the Special Rapporteur continued to receive allegations of extrajudicial, summary or arbitrary executions as well as death threats and attacks, directed mainly against persons regarded as opponents of the Government of President Juvénal Habyarimana. Such violations were said to have intensified during the last months of 1993 and early 1994. At the same time, the security forces were said to have continued the distribution of arms among the civilian population. To the Special Rapporteur's knowledge, none of the recommendations contained in the report on his visit, which was made public in August 1993 (E/CN.4/1994/7/Add.1) had been followed by the authorities.

271. The Special Rapporteur sent three urgent appeals to the Government, calling upon the authorities to protect the lives and physical integrity of Alphonse-Marie Nkubito, then Procurator General at the Appeals Court of Kigali and President of the Association Rwandaise pour les Droits de l'Homme (Rwandese Association for Human Rights, ARDHHO) (3 December 1993 and 11 March 1994); and to take urgent steps to prevent further violence, after

reports had been received of the killing of more than 300 civilians by soldiers of the Rwandese armed forces, and to protect the life of André Katabarwa, member of the human rights organization Association des Volontaires pour la Paix (Association of Volunteers for Peace, AVP), after a grenade attack against his home (17 January 1994). When presenting his report before the Commission on Human Rights at its fiftieth session in March 1994, the Special Rapporteur drew the attention of the members of the Commission to the escalating political violence in Rwanda and the lack of attention given to the conclusions and recommendations resulting from his visit.

272. A planned visit to Rwanda, together with the Representative of the Secretary-General on internally displaced persons, scheduled for April 1994, had to be cancelled after the outbreak of violence on the night of 6 to 7 April 1994.

273. On 19 April 1994, the Special Rapporteur deeply shocked by the mass killings that took place in Rwanda since the death of the Presidents of Rwanda and Burundi in the evening of 6 April 1994, issued a press release. The Special Rapporteur reminded the parties to the conflict of their obligation under every and any code of law to honour the right to life. He called for full respect for international humanitarian law and urged the armed forces and the Rwandese Patriotic Front (RPF) immediately to stop acts of violence against civilians and to use their influence over militias and other groups of armed civilians to this effect. The Special Rapporteur also reminded States which may receive asylum seekers from Rwanda fleeing for their lives of their obligations under international law. Finally, the Special Rapporteur called upon the international community to urgently take measures to stop the slaughter.

274. On 25 May 1994, the Commission on Human Rights established the mandate of a special rapporteur on the situation on human rights in Rwanda and requested the High Commissioner for Human Rights to establish a permanent presence of human rights officers in the country. In accordance with a request made to him by the Commission on Human Rights to that effect, the Special Rapporteur accepted an invitation extended to him by the Special Rapporteur on the situation of human rights in Rwanda, Mr. René Degni-Ségui, to accompany him on his first visit to Rwanda in June 1994. The Special Rapporteur refers to the reports presented to the Commission on Human Rights by the High Commissioner for Human Rights (E/CN.4/S-3/3) and the Special Rapporteur on the situation of human rights in Rwanda (E/CN.4/1995/7, E/CN.4/1995/12, E/CN.4/1995/70 and E/CN.4/1995/71).

Observations

275. The case of Rwanda illustrates the limits to the effectiveness of the action of a Special Rapporteur: the conclusions and recommendations contained in the report prepared after his visit to Rwanda in April 1993 did not receive any attention from the Government, despite a request for comments and observations as well as information on steps taken by the Special Rapporteur in a letter to the Government on 24 September 1993. Neither the report nor the concerns expressed by the Special Rapporteur in his introductory statement before the Commission on Human Rights at its fiftieth session received any attention from the members of the Commission. Neither the escalating

political violence in Rwanda nor the fact that the Rwandese Government had not shown any willingness to cooperate with the Special Rapporteur after his visit appeared to preoccupy the members of the Commission in February 1994.

276. The Special Rapporteur wishes to express his deep concern at this situation. He urges the Commission on Human Rights to give thought to possible ways of ensuring the follow-up of recommendations made by its emissaries. The ad hoc appointment of a special rapporteur to monitor the human rights situation in countries that refuse to cooperate in the follow-up of recommendations or the establishment of a formal mechanism to do so could be considered. The Special Rapporteur also calls on the Commission on Human Rights at the same time to intensify efforts to establish an early-warning mechanism that could be activated when the signs of an imminent crisis become apparent, as was the case in Rwanda. In the present situation, the Special Rapporteur fears that with the Commission showing little or no interest in the reports of its special rapporteurs, representatives, independent experts or working groups, whatever impact these procedures may have with regard to early warning and prevention of imminent human rights and humanitarian crises is simply lost.

Saudi Arabia

277. The Special Rapporteur transmitted to the Government the case of Jabbar Muhammad Karim al-Etaym, reportedly killed by an armed guard in Rafha refugee camp after an argument. On 23 November 1994, the Government replied to the allegation and requested the Special Rapporteur to ascertain the facts through the Office of the High Commissioner for Refugees in Riyadh before making such an accusation.

Observations

278. The Special Rapporteur wishes to thank the Government for the reply provided. He will follow up on this letter in accordance with the procedures established in the framework of his mandate. However, the Special Rapporteur wishes to remind the Government of Saudi Arabia of its obligation under international law to conduct exhaustive and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions committed under their jurisdiction, aiming at the identification, prosecution and punishment of those found responsible, adequate compensation for the victims or their families as well as prevention of further violations of the right to life.

Sierra Leone

279. The Special Rapporteur sent an urgent appeal to the Government after being informed that Amara Conteh was sentenced to death by a court martial in Freetown for having collaborated with rebel forces. Fears were expressed that he might face execution without having had the right to appeal against the sentence (15 September 1994). At the time the present report was finalized, no reply had been received from the Government.

Singapore

280. The Special Rapporteur sent an urgent appeal to the Government after being informed of death sentences imposed on Abdullah A. Rahman, a Malaysian national, and Lim Choon Chye, both reportedly for drug trafficking. In both cases, witnesses were said to have given testimony indicating that the two men were not involved in the crimes for which they had been convicted, but the Court of Appeal allegedly refused to reopen the cases on the grounds of this new evidence (21 July 1994). At the time the present report was finalized, no reply had been received from the Government.

Somalia

281. During 1994, the Special Rapporteur received information indicating that the armed conflict in Somalia continued, entailing further loss of life and suffering for the civilian population. However, none of these replies contained specific details which would have enabled the Special Rapporteur to act within his mandate.

282. On 26 October 1994, the Special Rapporteur had sent a communication to the Special Representative of the Secretary-General for Somalia and head of the United Nations Operation in Somalia (UNOSOM). In this letter, the Special Rapporteur expressed concern at reports of involvement of United Nations personnel in the killing of civilians and asked for information on investigations carried out to clarify the circumstances of these incidents, in particular whether the United Nations forces resorted to excessive use of force, establish responsibilities and impose appropriate sanctions on those who might have been found responsible for human rights violations. The Special Rapporteur also asked to be informed of measures that might have been adopted to avoid excessive use of force by members of the international peace-keeping operation in particular whether they had received any specialized instruction with regard to internationally recognized standards and the obligation to abide by them even during armed conflicts. The Special Rapporteur notes with regret that no information has been received from the Special Representative in reply to his inquiries. Similarly, the Special Rapporteur has not been informed of the outcome of a United Nations investigation into the conduct of peace-keeping personnel in connection with the killing of civilians, allegedly in reprisal for the death of more than 20 Pakistani members of UNOSOM in June 1993. He had learnt about this initiative through media reports.

Observations

283. The Special Rapporteur would like to reiterate his concerns, as expressed in his report to the Commission on Human Rights at its fiftieth session (see E/CN.4/1994/7, para. 534), concerning the need to ensure that all members of United Nations peace-keeping and observer missions fully respect the rights and guarantees contained in international human rights instruments. Training of mission personnel, both military and civilian, is essential in this regard and should form an integral part of the deployment process of each such operation. The Special Rapporteur is aware of a number of initiatives taken in this regard, such as a human rights training programme for the police personnel who form the civil police component of the

United Nations Operation in Mozambique (UNOMOZ). The Special Rapporteur also feels that when determining the composition of peace-keeping and observer operations, the need for personnel specialized in human rights issues should be taken into consideration. The strengthening of civil police contingents could be a possible way of ensuring that such operations possess the experience and expertise necessary to follow up on allegations of human rights violations and prepare case files which could then be transferred to the competent bodies and mechanisms within the United Nations. The Special Rapporteur feels that this would be particularly useful where such information could be used to prosecute perpetrators of human rights violations.

South Africa

284. During the first half of 1994, the Special Rapporteur continued to receive reports and allegations of violations of the right to life, including extrajudicial, summary or arbitrary executions and death threats against members of the African National Congress (ANC) and trade unionists, for which members of the South African Police (SAP) and groups allegedly cooperating with them were said to be responsible. For a more detailed analysis of the human rights situation in South Africa, reference is made to the final report of the Ad Hoc Working Group of Experts on Southern Africa (E/CN.4/1995/23).

285. The Special Rapporteur sent four urgent appeals to the Government. He intervened twice, on behalf of trade union leader Enoch Nzuza, his brother Mandla and their family, after being informed of renewed death threats and attacks against their family home (15 March and 17 November 1994). The Special Rapporteur also urged the authorities to protect the lives and physical integrity of Sam Nxumalo, ANC chairman of the Eshowa area, as well as 35 other ANC members and residents of Eshowa town, whose names were reportedly found on a list. Some of those named, including ANC official Timonthy Yeka Sibiya, were said to have been subjected to attacks and threats by members of the SAP and KwaZulu police (8 April 1994). In another urgent appeal, he called on the authorities to protect the lives and physical integrity of the family members of Blessing Vusumuzi Ntuli, killed outside his house in circumstances suggesting that he was extrajudicially executed. During the days following his killing, members of the SAP reportedly raided the family's house and arrested some of the family members (7 July 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution of Clare Stewart, an agricultural development worker and ANC activist in northern Natal, whose remains were found in November 1993 some days after she was abducted, allegedly by persons linked to the SAP. At the time the present report was finalized, no replies had been received from the Government.

Follow-up

286. In a letter dated 23 September 1994, the Special Rapporteur asked the Government to provide him with additional information on the progress of investigations into the case of Sipho and Lucky Mthiyane, as stated in a reply received in November 1993 (see E/CN.4/1994/7, para. 544) and, in particular, whether the suspect had been arrested in the meantime.

Observations

287. The Special Rapporteur expresses concern at the continuing reports of violence in South Africa. He hopes, however, that the inauguration of the new, democratically elected Government under President Mandela may mark the beginning of a new era in South Africa, and calls on the authorities and the civilian population to continue efforts towards peace, reconciliation and respect for human rights.

Sri Lanka

Information received and communications sent

288. The reports and allegations brought to the attention of the Special Rapporteur indicated that violations of the right to life continued to occur in the context of military operations directed against the Liberation Tigers of Tamil Eelam (LTTE). As in former years, civilians were said to have been killed during indiscriminate air attacks and naval strafing of areas inhabited by civilians.

289. The Special Rapporteur transmitted to the Government allegations he had received concerning the killing, during army attacks, of the following persons: Thavamalar Aiyathurai, Selvarasa Pachiyarajah, Sathasivam Balasubramaniam, Visvalingam Sellathurai and Sellaiah Subramiam, Uthayakumar Urithirapathy, Sivarasa Visagamoorthy, and Piraba Thavendran (14). In addition, R.D. Wimaladasa and four other prisoners were allegedly killed by security forces at Mahara prison. At the time the present report was finalized, no reports had been received from the Government.

290. The Special Rapporteur also addressed a letter to the Government after being informed of the discovery of a series of mass graves containing up to 300 bodies at the summit of the Suriyakanda mountain at Kolonne, Ratnapura district. The remains found in those graves were said to belong to people killed during Government counter-insurgency operations against the *Janatha Vimukthi Permamuna* (People's Liberation Front, JVP) in 1989. Thirty-one schoolchildren who had disappeared in 1989 while in military custody may also have been buried in the mass graves. The Special Rapporteur reminded the authorities of their obligation under international law to conduct thorough and impartial investigations into the graves, applying the highest standards of forensic expertise. He drew the Government's attention to the Model Protocol for Disinterment and Analysis of Skeletal Remains, included in the *Manual for the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (ST/CSDHA/12 and Corr.1), a document elaborated in 1991 by the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development and Humanitarian Affairs. The Special Rapporteur also suggested that the Government consider inviting foreign forensic experts to participate in the excavations and referred to a list of specialists contained in the report of the Secretary-General on human rights and forensic sciences, presented to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/24) (3 March 1994).

Follow-up

291. On 30 and 31 December 1993, the Government provided the Special Rapporteur with information in reply to his letter of 22 September 1993, in which he had sought additional information concerning the killing of 130 villagers in Alanchipothana, Karapola and Muthugal in April 1992 (see E/CN.4/1994/7, para. 555). The Government informed the Special Rapporteur that a three-person committee, appointed by the Ministry of Defence to investigate the incidents, had presented a confidential report containing conclusions and recommendations. The committee had found that the killings at Karapola and Muthugal were carried out by villagers and some home guards of Alanchipothana, in reprisal for the earlier killings by LTTE at their village. Reportedly, the Karapola police post did not attempt to prevent the violence. The committee also stated that there had apparently been no control of the issue of arms and ammunition, particularly to home guards, and recommended, inter alia, a Disciplinary Code of Conduct for the home guards who should be placed under a defined authority such as the army or the police; the creation and training of a paramilitary force to supplement home guards in the defence of border areas against the LTTE; investigations into all complaints and action, if necessary, against any member of the group.

292. In a letter dated 23 September 1994, the Special Rapporteur requested further details on the investigation carried out by the committee, particularly with regard to the date on which the report was submitted and the follow-up given to the recommendations. The Special Rapporteur also inquired whether anyone had been brought to justice in connection with the killings at Alanchipothana, Karapola and Muthugal, and whether any judicial or disciplinary measures had been taken with regard to those based at the Karapola police post.

Observations

293. The Special Rapporteur thanks the Government for the information provided. However, he remains concerned at persistent allegations of deaths of civilians in military counter-insurgency operations. The Special Rapporteur reiterates his call on the authorities to take all necessary measures to ensure full respect for the restrictions on the use of force and firearms contained in the pertinent international instruments. In connection with the recommendation formulated by the committee investigating the killings at Alanchipothana, Karapola and Muthugal, in particular the recommendation to establish a paramilitary anti-insurgency force, the Special Rapporteur wishes to stress the need for strict control of any such auxiliary force by the security forces. In view of the experience of other countries, where paramilitary groups are responsible for numerous and grave human rights violations, the Government may wish to consider as a preferable solution strengthening regular security forces in areas with armed conflict, rather than creating a paramilitary body. With a view to preventing human rights abuses by either security forces or paramilitary groups, the Special Rapporteur once again emphasizes the importance of investigating all allegations of such abuses, with a view to identifying those responsible and bringing them to justice, as well as granting adequate compensation to the victims or their families.

294. In its letter of 31 December 1993, the Government reiterated its invitation to the Special Rapporteur to carry out a visit to Sri Lanka at a mutually agreeable date after March 1994. The Special Rapporteur wishes to thank the Government for this invitation. He hopes to be in a position to visit the country during 1995, in order to gather first-hand information on the situation with regard to the right to life in Sri Lanka and formulate, as appropriate, recommendations for improvements. While the reports and allegations received during the year continue to give rise to concern, the Special Rapporteur hopes that the cease-fire declared on the occasion of the inauguration of the newly elected President Chandrika Kumaratunga may constitute a lasting cessation of hostilities and thus increase the security of the civilian population in areas of armed confrontations and counter-insurgency operations. In this context, the Special Rapporteur also wishes to stress the importance of carrying out exhaustive and impartial investigations into all allegations of human rights violations, with a view to clarifying the facts, identifying those responsible and bringing them to justice, granting adequate compensation to the victims or their families. As experience gained in other countries has shown, establishing the truth about the past is essential for prevention of renewed human rights violations in the future.

Sudan

Follow-up

295. On 25 October 1994, the Government provided information in reply to an urgent appeal transmitted by the Special Rapporteur on 30 April 1993 (see E/CN.4/1994/7, paras. 561 and 564), informing him that Dr. Jaffar Yassin Ahmed, El Tarafi El Taher Fadul and Osman Mahmoud Ali Gumma had been sentenced to five years' imprisonment after having been found guilty of plotting to overthrow the Government and carrying out attacks on some essential public institutions.

Observations

296. The Special Rapporteur wishes to thank the Government for the information provided in the aforementioned communication. With regard to an analysis of the human rights situation in Sudan, the Special Rapporteur wishes to refer to the report presented to the Commission on Human Rights by the Special Rapporteur on the situation of human rights in Sudan, Mr. Gáspar Biro (E/CN.4/1995/58).

Syrian Arab Republic

297. The Special Rapporteur transmitted to the Government allegations he had received according to which Dani Mansourati, a Lebanese national, died while in custody of the military intelligence services in Damascus in early 1994, reportedly after being subjected to torture. On 14 July 1994, the Government replied to this communication informing the Special Rapporteur that Dani Mansourati had been arrested in 1992 on suspicion of engagement in acts of espionage for Israel, and was sent for trial and sentenced to death, in accordance with the legal procedures in force.

Tajikistan

298. The Special Rapporteur sent an urgent appeal to the Government after being informed of extrajudicial executions by paramilitary forces operating unofficial prison camps in the central and southern regions of the country. According to the information received, these camps were being run with the knowledge of the authorities. Two detainees held in such camps, Mirzonazar Imomnazarov and Kurbonbek Nazarshoyev, had reportedly been killed (23 February 1994). At the time the present report was finalized, no reply had been received from the Government.

Follow-up

299. On 31 January 1994, the Special Rapporteur addressed a letter to the Government in which he expressed deep concern at the reports and allegations received according to which up to 20,000 people, many of them unarmed civilians not taking part in hostilities, had lost their lives since the outbreak of armed conflict between forces loyal to the Government and armed opposition groups in May 1992. The Special Rapporteur inquired whether the Government would consider inviting him to visit Tajikistan. On 15 March 1994, the Special Rapporteur reiterated this request. At the time the present report was finalized, no reply had been received from the Government.

Observations

300. The Special Rapporteur notes with regret that no replies have been received from the Government, either with regard to the cases and allegations transmitted or concerning his request for a visit to the country. The Special Rapporteur has also learnt with deep concern that the death sentence imposed on Adzhik Aliyev, on whose behalf he had sent two urgent appeals in 1993 after receiving reports about shortcomings in the trial proceedings leading to his being sentenced to death for terrorism, treason and conspiring to overthrow the Government (see E/CN.4/1994/7, para. 578), was carried out on 15 September 1994, while representatives of the Government and the opposition were meeting in Tehran to sign an agreement on the release of all opposition supporters who were in prison. The Special Rapporteur reiterates his urgent call on the authorities to ensure that defendants facing the death penalty benefit from all the safeguards and guarantees contained in the pertinent international instruments. The Special Rapporteur also urges the Government to take urgent steps to prevent further loss of life in detention facilities. Unofficial detention camps should be closed. Those responsible for having committed or condoned human rights violations should be brought to justice, in accordance with the Government's obligations under international law.

Togo

Information received and communications sent

301. The Special Rapporteur sent three urgent appeals to the Government of Togo. Fears for the safety of Jean Yaovi Degli, President of the Ligue Togolaise des Droits de l'Homme (Togolese League for Human Rights, LTDH), and Akpédje Degli were expressed after a military raid at the latter's home and repeated death threats. The lives of two young people called Agossou and

Avami were also said to be at risk after they were arrested by security forces personnel (13 December 1993). In another urgent appeal, the Special Rapporteur expressed concern at reports of the extrajudicial execution of 36 persons by members of the national gendarmerie after an attack against the barracks of the Régiment Interarmes Togolais (Togolese Combined Regiments, RIT). A number of others detained in connection with the attack were also feared to face execution (17 January 1994). Various incidents in which members of the security forces employed force in an arbitrary manner, causing the death of at least 10 persons, were reported to have taken place during January and February 1994. Six others were said to be under death threats (25 February 1994).

302. In addition, the Special Rapporteur transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution by security forces during early 1993 of the following persons: Kodjo Puafa and Ms. Adokpa, reportedly killed during the violent incidents of January 1994; Nicolas Coquil (12) and 5 others; Isaac Gbiki-Benissan; Koffi Doulou, as well as Donne Lawson Late and 15 others, reportedly killed when security forces opened fire indiscriminately on participants in a peaceful demonstration; César Kpodar; Akara; and Bichakine.

Communications received

303. On 24 December 1993, the Government replied to the Special Rapporteur's urgent appeal of 13 December 1993, informing him that the security forces had proceeded on the basis of information provided to them and, as they had not found anything in the houses searched, they had retreated. Allegations of death threats were baseless. On 21 January 1994, the Government replied to the Special Rapporteur's urgent appeal of 17 January 1994 and informed him that no extrajudicial executions had ever taken place in Togo and that no one had been extrajudicially killed during the recent events. A group of terrorists had attacked Lomé on 5 and 6 January 1994. The persons mentioned in the Special Rapporteur's urgent appeal had been arrested for their involvement in the attack. They had recovered their weapons and killed three soldiers and were killed during the ensuing clash. Nine others detained in connection with the events of 5 and 6 January were in detention, while investigations had been opened.

Follow-up

304. In a letter dated 23 September 1994, the Special Rapporteur asked for further clarifications with regard to the above-mentioned replies, as well as two replies received from the Government in 1993 (see E/CN.4/1994/7, paras. 590-591). In particular, the Special Rapporteur asked whether investigations had been carried out to evaluate the conduct of the law enforcement officials involved, and what measures had been taken by the authorities to ensure that the provisions contained in international instruments limiting the use of force and firearms were fully respected during operations aimed at restoring public order.

Observations

305. The Special Rapporteur thanks the Government for the information provided in reply to his communications. However, he remains concerned at persistent reports and allegations of arbitrary and abusive use of force by law enforcement officials acting with total impunity. The Special Rapporteur calls upon the authorities to adopt all necessary measures to ensure respect for the right to life during operations carried out by law enforcement officials, to prosecute and punish all those responsible for extrajudicial, summary or arbitrary executions, grant adequate compensation to the victims and adopt measures to prevent the recurrence of violations of the right to life.

Trinidad and Tobago

306. The Special Rapporteur sent an urgent appeal to the Government in which he called upon the authorities to ensure full respect for the rights and guarantees of those facing the death penalty after being informed that Lincoln Anthony Guerra and Brian Walden were scheduled for execution on 25 March 1994 although appeal proceedings were still pending (25 March 1994). Another communication was sent to the Government after the Special Rapporteur received reports of the execution of Glen Ashby, sentenced to death in July 1989. At the time of his execution, two proceedings were said to be pending: on 6 July 1994, Glen Ashby had made a complaint to the United Nations Human Rights Committee, and on 13 July 1994, he had brought a constitutional motion in Trinidad. It was further reported that the Government had given an assurance to the Privy Council in London, the highest court for Trinidad and Tobago, that he would not be executed before all avenues of relief were exhausted (15 August 1994). To date, no reply has been received from the Government.

Observations

307. The reports received by the Special Rapporteur, in particular those referring to the execution of Glen Ashby while legal proceedings were still pending, are most disturbing. Further information received subsequent to the Special Rapporteur's letter to the Government stated that there had been irregularities in the appeal procedures. The Special Rapporteur urges the Government to ensure that the guarantees and safeguards of those facing the death penalty, as contained in a number of pertinent international instruments, be fully respected. The Special Rapporteur is particularly concerned that Glen Ashby was executed 4 years and 11 months after having been sentenced to death. In his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur had expressed concern that the 1993 judgement of the Privy Council, which held that awaiting execution for five years constituted in itself cruel and inhuman punishment, might incite Governments to speed up the carrying out of death sentences, to the detriment of respect for the defendants' fair trial guarantees (see also below para. 382).

Turkey

Information received and communications sent

308. The reports and allegations received by the Special Rapporteur indicate that violations of the right to life continued to occur during 1994 in the context of the armed conflict between government security forces and guerrillas of the Partiya Karkeren Kurdistan (Kurdish Workers' Party, PKK) in the south-eastern parts of Turkey. As in former years, most of these reports referred to death threats against or extrajudicial executions of civilians during operations carried out by the security forces in villages suspected of harbouring members of the PKK. According to the reports received, members of the political opposition, journalists and human rights activists continued to be targets of acts of violence. The security forces and paramilitary groups cooperating with them, particularly the "village guards" and, in some instances, the "Kontrgerilla", were said to be responsible for violations of the right to life. A renewed wave of military operations was said to have started on a large scale during the month of April 1994, leading to a massive influx of Turkish Kurds into northern Iraq.

309. The Special Rapporteur sent four urgent appeals to the Government. Fearshad been expressed for the lives of the following persons: Ahmet Aslan and 12 other villagers from Payamli, Siirt, who were said to have been detained during a raid by the security forces at their village, allegedly in reprisal for the refusal of the villagers to participate in the village guard system for fear of reprisal attacks from the PKK (17 January 1994); Nebahat Akkoc, after threatening telephone calls, reportedly in relation to complaints of human rights violations lodged by Nebahat Akkoc with the European Commission of Human Rights (31 October 1994). The Special Rapporteur also expressed concern for the lives and physical integrity of members of the People's Labour Party (HADEP), after the killings of HADEP officials, Mehmet Salih Sabukettin, Rebih Cabuk and Sever Cerf and attacks against several others, allegedly by members of the police (13 October 1994).

310. The Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution of the following persons:

(a) During operations by security forces: Nasir Gũt, his wife and six children, in Altinova, Mus; Besir Baskak, Abdullah Gler, Sait Sen and Ahmet Gler; Ahmet Zetin; Hũseyin Ergen; Eyũp Donat; Mehmet Emin Bingõl, Yakup Tetik, Mehmet Acal and Ali Can Õner; Sehmuz Celik; Mahmut Cakmak; 11-year-old Tũncer Gũler. In addition, Besir Dogan and Yeker Gler were reportedly killed with explosives dropped from helicopters;

(b) Necati Aydin, Mehmet Ay and a third person, reportedly killed after being detained by the anti-terror branch of the Diyarbakir police; Zeki Aksoy, reportedly killed for having filed a complaint against the Government of Turkey for torture with the European Commission on Human Rights, after receiving threats that he would be killed unless he dropped the charges; Serif Avsar, reportedly detained without a warrant by village guards and plain-clothes men allegedly linked with Diyarbakir gendarmerie and subsequently found dead; and Halil Alpsoy, member of HADEP, reportedly abducted and subsequently killed by police.

Communications received

311. On 29 March 1994, the Government replied to the Special Rapporteur's urgent appeal of 17 January 1994, informing him that shots had been fired from within the village of Payamli against gendarmes performing a field operation in the vicinity of the village. Eight of the villagers named in the appeal, who were involved in the incident, were taken into custody and three of them released by the court, while the other five were arrested. Five have never been detained. All persons taken into custody were thus accounted for. In a letter dated 24 November 1994, the Government informed the Special Rapporteur that a preparatory inquiry had been opened into the killing of Halil Alpsoy who, contrary to the allegations, had not been detained by police in the Kükükcekmeke district.

Follow-up

312. The Government provided the Special Rapporteur with information on a number of cases transmitted in 1993 as follows: Tahir Saday had died of a coronary illness from which he was suffering; Mustafa Dogan was killed by an unidentified person while sleeping at his house; Abdüsselam Orak, in custody of the security forces, had fallen and hit his head when trying to escape, which caused his death; the killing of Yusuf Cakar may have been linked to a blood feud between two families of the same region; preliminary investigations were under way in all cases (26 November 1993); Aysel Malkac's whereabout remained unknown despite investigations still under way (30 November 1993); the development of the kidnapping of Ferhat Tepe and his past involvement with the PKK pointed towards an intra-PKK feud as the reason for his killing; Ibrahim Dilek (Delek), who may have been kidnapped by terrorists, was tortured but eventually died of respiratory and circulatory deficiency; Seydo, Bahriye, Ahmet and Yusuf Ceviren, Mehmet Necat Aras (Arizi) and one unidentified person were killed during an armed confrontation with security forces; Hazim (Asim) and Ahmet (Mehmet) Bulut (Both), both PKK members, died during an armed confrontation with the security forces; the PKK had attacked the village of Ormanici, but no unidentified three-year-old girl had been killed during the attack (3 January 1994); members of the Hizbullah organization, which claimed responsibility for the murder of Mehmet Sincar, Metin Özdemir and Habib Kilic, were arrested and had pleaded guilty (10 January 1994); enforcement officials had arrested 10 persons for their suspected involvement in the murder of several persons, including Kemal Kiliç, journalist for Özgür Gündem (26 November 1993, 31 January 1994); a member of a fundamentalist organization was arrested while in possession of a weapon used in the attack against Burhan Karadeniz, who has gone to Germany, thus making it impossible to identify a number of persons taken into custody in relation to the attempt against his life (21 March 1994).

313. In addition, the Government informed the Special Rapporteur of operations carried out by law enforcement officials during which a number of persons

were arrested and arms recovered which had been used in several killings (28 January 1994), as well as of the termination of military courts martial on 30 December 1993 (27 January 1994).

314. In a letter of 23 September 1994, the Special Rapporteur asked to be provided with some additional information concerning the progress of the investigations initiated, as stated by the Government in its aforementioned replies as well as in other communications received during 1993 (see E/CN.4/1994/7, paras. 604-605).

Observations

315. The Special Rapporteur wishes to thank the Government for the replies provided to some of his communications. However, he remains concerned at the persistent and grave allegations of violations of the right to life in Turkey, particularly in the south-east of the country. For more than two years, the Special Rapporteur has found himself in a position where numerous allegations from a variety of credible sources and the replies provided by the Government, which invariably states that the killings are not of an extrajudicial, summary or arbitrary character, contradict each other. The Special Rapporteur has stated on repeated occasions that an on-site visit would be the only way for him to seek independent information with a view to evaluating accurately both the allegations and the replies received. With regard to Turkey, he first sought an invitation to carry out a visit there in August 1992. He has since then manifested his interest in visiting Turkey on various occasions. During a meeting in Geneva with the Permanent Representative of Turkey to the United Nations Office at Geneva, the Special Rapporteur was informed that the Turkish authorities were in agreement with the principle of a visit. This position was reiterated in subsequent contacts, in particular during a meeting on 19 November 1993. However, as indicated in the Special Rapporteur's report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, para. 612), the consultations concerning his visit to Turkey have not yielded any result. Indeed, the Special Rapporteur finds the fact that the visit has not materialized, despite repeated assurances from the Government over a period of more than two years that a visit by the Special Rapporteur would meet with their agreement, gives rise to the question whether the Government is genuinely willing to invite him.

Ukraine

316. The Special Rapporteur sent an urgent appeal to the Government after being informed that Vasily Mikhaylovich Krivonos had been sentenced to death for murder in November 1993. Allegedly, his confession had been obtained under duress, and he was granted access to his lawyer only after the prosecution had completed its investigation and compiled the indictment. After the Supreme Court had rejected his appeal, the case was being considered for clemency by the President of Ukraine. It was feared that the execution might be imminent (13 April 1994). On 31 May 1994, the Government informed the Special Rapporteur that the President of Ukraine was considering the petition for clemency, and that there were no grounds to believe that the execution would be carried out while the clemency procedures were pending.

Follow-up

317. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the aforementioned reply and asked to be informed about the evolution of the case. On 26 October 1994, a further communication was received from the Government in which it informed the Special Rapporteur that the petition for clemency had not yet been examined.

United Arab Emirates

318. The Special Rapporteur sent an urgent appeal to the Government after being informed that the Supreme Court had upheld the death sentence passed by a court at Abu Dhabi upon Mashal Badr al-Hamati, a Yemeni national convicted of murder. According to the information received, he was 17 years old at the time of the crime. Fears were expressed that he might face imminent execution (19 January 1994). At the time the present report was finalized, no reply had been received from the Government.

United Kingdom of Great Britain and Northern Ireland

Information received and communications sent

319. During 1994, the Special Rapporteur received a number of reports and allegations referring to violations of the right to life in the context of the conflict in Northern Ireland. In several cases, concerns were expressed that the use of lethal force by members of the Royal Ulster Constabulary (RUC), the police force operating in Northern Ireland, against persons was disproportionate, and that the investigations into such killings, carried out internally, lacked the necessary independence and impartiality, as supervision by the Independent Commission for Police Complaints (ICPC) was not sufficient. The findings of these investigations were submitted to the Director of Public Prosecutions (DPP) which decided whether to prosecute. If it was decided not to prosecute, a coroner's inquest would establish when, where and how the death occurred; however, this would not determine whether the killing was lawful or unlawful.

320. The Special Rapporteur was also informed of killings by loyalist paramilitary groups such as the Ulster Defence Association (UDA), also known as the Ulster Freedom Fighters (UFF), and the Ulster Volunteer Force (UVF), and of allegations of collusion, including the leaking of confidential intelligence information from security forces to loyalist paramilitary formations. Indications of links between the security forces and the UDA, which emerged during the trial of a double agent as a result of an official investigation, were reportedly not followed up by the authorities.

321. The Special Rapporteur sent an urgent appeal to the Government after being informed of fears for the life and physical integrity of Brian Austin, relative of a Sinn Fein representative to Belfast City Council, who was said to have received death threats by loyalists on several occasions since December 1993. Despite these threats, the authorities were said to have failed to provide him with any means of protection (2 June 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the cases of Pearse Jordan and Gerald Maginn (17), both reportedly

killed by RUC officers, and Patrick Finucane, reportedly killed by a loyalist paramilitary group, who was said to have received death threats from members of the RUC on repeated occasions, allegedly in relation with his work as a lawyer representing persons accused of terrorism. In all three cases, it was alleged that the killings were not properly investigated, resulting in impunity for those responsible.

Communications received

322. On 3 August 1994, the Government replied to the urgent appeal of 2 June 1994 and informed the Special Rapporteur that Brian Austin, who had indeed been informed by the security forces of threats against him from loyalists, had not taken the most basic security precaution of ensuring that his name, address and telephone number were no longer listed in the official telephone directory. Furthermore, his applications for a firearm licence and for funds to install physical protection measures at his home were carefully considered but refused by the competent officials who judged that not all criteria were satisfied.

323. On 20 October 1994, the Government provided another reply and informed the Special Rapporteur that the ICPC's role was to ensure that complaints against the RUC were thoroughly investigated and that disciplinary action was taken where appropriate. Its members were fully independent of the Government and the police. Once completed, a report of the investigations was made to the independent DPP for a decision whether or not prosecution was warranted. If the DPP decides to prosecute, the courts are to decide innocence or guilt. It also reported on the following cases:

(a) In the case of Pearse Jordan, the DPP, on the basis of the investigation report, decided not to prosecute the officer involved. At the time of the reply, the coroner's inquest had not yet taken place. The Government stated that there was no provision for legal aid for representation for the families, as the coroner was not permitted to express an opinion on any question of civil or criminal liability;

(b) A full investigation took place into the killing of Gerald Maginn, on the basis of which the DPP decided that no officer should be prosecuted;

(c) Despite extensive and ongoing inquiries, the RUC were unable to secure a basis on which to prosecute anyone in connection with the murder of Patrick Finucane. Three people had been charged and convicted in connection with the possession of weapons used in the murder. On the basis of a full investigative report on the circumstances of Patrick Finucane's killing submitted in connection with an inquiry into allegations of collusion, the DPP decided that no officer should be prosecuted in connection with Mr. Finucane's death.

Follow-up

324. The Special Rapporteur thanks the Government for the replies provided to his communications. According to the procedures established for the follow-up on allegations, the contents of these replies have been transmitted to the sources of the allegations for comments and observations.

United States of America

325. During 1994, the Special Rapporteur continued to receive reports indicating that legislation and practice relating to capital punishment in the United States of America did not conform to internationally recognized standards for fair trials. As in former years, it was alleged that defendants facing the death penalty did not benefit fully from their right to an adequate defence. The Special Rapporteur also continued to receive reports of death sentences imposed for offences committed when the defendants were below 18 years of age, or where they were said to be mentally retarded. It was repeatedly reported that the practice of capital punishment was discriminatory, death sentences being applied disproportionately on the poor, on members of minorities, on the mentally ill or retarded, and on those without adequate legal counsel, and in cases where the defendants were black.

326. The Special Rapporteur received reports concerning two legislative initiatives which extended the scope of the death penalty during 1994. In April 1994, a bill reinstating the death penalty in the State of Kansas entered into force, providing for the possibility of imposing death sentences for specific types of intentional murder. A new Federal Crime Bill was signed into law by the President during the summer which expanded the federal death penalty to cover some 60 crimes, most of which had not been punishable by death under federal law before. Under the new law, capital offences range from the murder of federal officials to non-homicidal offences, including the attempted assassination of the President and major drug-related crimes.

327. The Special Rapporteur sent seven urgent appeals to the Government calling on the authorities to ensure full respect for the right to life of the following persons, all reportedly sentenced to death in trial procedures falling short of internationally recognized standards: Christopher Burger, who was 17 years old at the time of the crime for which he was convicted and sentenced to death (2 December 1993); Johnny Watkins (2 March 1994); Roy Stewart and Larry Anderson (14 April 1994); Robert Nelson Drew (25 July 1994); Benjamin Terry (3 August 1994); César Fierro (5 August 1994); and Harold "Wili" Otey (10 August 1994). At the time the present report was finalized, no reply had been received from the Government. The Special Rapporteur also transmitted to the Government allegations he had received according to which William Henry Hance was executed in March 1994 after being sentenced to death by a court in Chattahoochee, Florida, in proceedings tainted with racial discrimination.

Follow-up

328. On 23 September 1994, the Special Rapporteur sent a letter to the Government. With reference to concerns expressed earlier regarding a number of questions relating to the legislation and practice concerning capital punishment in the United States of America (see E/CN.4/1994/7, paras. 628-632), the Special Rapporteur expressed concern at reports of the reinstatement of the death penalty in the State of Kansas and at the new Federal Crime Bill.

329. The Special Rapporteur learned with deep regret from the sources of the allegations that the death sentences of Roy Stewart, Larry Anderson, Robert Nelson Drew and Harold "Wili" Otey were carried out as scheduled.

Observations

330. In his follow-up letter of 23 September 1994, the Special Rapporteur expressed his deep concern at the persistent allegations of violations of the right to life in the context of capital punishment in the United States of America. The reports received concerning the extension of the scope of the death penalty in Kansas and on the federal level are most disturbing. The Special Rapporteur emphasizes once again the desirability of the abolition of the death penalty, repeatedly expressed by the Human Rights Committee in its comments on article 6 of the International Covenant on Civil and Political Rights, the General Assembly, the Economic and Social Council and the Inter-American Commission on Human Rights. The expansion of the range of capital offences is all the more preoccupying in the light of recurring reports according to which the guarantees and safeguards set forth in international instruments relating to fair trial procedures and specific restrictions on capital punishment are not fully respected.

331. The Special Rapporteur pointed out to the authorities that his concerns, expressed in this and earlier communications, persisted. He therefore inquired whether the Government could consider inviting him to carry out a visit to the United States of America to discuss the issue of capital punishment with authorities, both at federal and at the state level, as well as with interested organizations and individuals. At the time the present report was finalized, no reply had been received from the Government.

Uruguay

332. The Special Rapporteur transmitted to the Government allegations he had received according to which José Roberto Facal and Fernando Alvaro Morroni were killed when security forces employed excessive force against the participants in a demonstration to protest against the extradition of three persons of Basque origin to Spain, which took place in Montevideo on 24 August 1994. At the time the present report was finalized, no communications had been received from the Government.

Uzbekistan

333. The Special Rapporteur sent an urgent appeal to the Government after being informed of a bomb attack against the home in Tashkent of Khamidulla Nurmukhamedou, a leading member of the outlawed opposition party Erk (Freedom). It was alleged that the security forces might have been involved in the attack (13 June 1994). On 15 August 1994, the Government replied to the urgent appeal, informing the Special Rapporteur that the crime had not been connected with any political motives but was considered as hooliganism and intentional damage of private property, according to the Criminal Code of the Republic of Uzbekistan.

Follow-up

334. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked for some further clarifications concerning the investigations into the bomb attack, in particular, whether the authors had been identified and on what grounds political reasons had been excluded as motive for the attack.

Venezuela

Information received and communications sent

335. During 1994, the Special Rapporteur received reports and allegations indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continued to occur in Venezuela. Several such reports referred to violence in detention facilities. Prisons were said to be overcrowded and security personnel reportedly resorted to excessive use of force when attempting to control mutinies or prevent the escape of inmates. The Special Rapporteur also received reports of violence against members of indigenous communities in the context of land conflicts in the region of Perijá, State of Zulia. Hired gunmen at the services of large landowners and members of the security forces were said to be responsible for killings of peasants who claimed right to the disputed land. According to the information received, the local chief of police had been dismissed and investigations into these killings were ordered by the Governor of Zulia.

336. The Special Rapporteur sent three urgent appeals to the Government. He expressed concern after being informed that more than 150 prisoners had died during a mutiny at the National Prison at Maracaíbo, known as "Sabaneta". A further nine prisoners were reported to have died when security forces impeded their attempts to escape from "Tocorón" prison in Aragua (17 January 1994). The Special Rapporteur sent a second urgent appeal in which he called on the authorities to ensure exhaustive and impartial investigations of clandestine mass graves at Perijá, where human remains had been found which were said to belong to persons who may have been extrajudicially executed (29 April 1994). The Special Rapporteur also called on the authorities to protect the lives and physical integrity of the members of the Red de Apoyo por la Justicia y Paz (Support Network for Justice and Peace), who were said to have received death threats after having participated in a radio programme during which they accused the police of torture and extrajudicial executions in Caracas (17 August 1994).

337. The Special Rapporteur also transmitted to the authorities allegations he had received concerning the extrajudicial execution by members of the Venezuelan army of three members of the Yucpa indigenous community, Felipe Ramón and Vicente and Carmen Romero, in February 1994; and of Ildefonso Carmona, who was said to have received death threats from members of the military previous to his murder in November 1993. Both cases were said to have taken place in the area of Perijá.

Communications received

338. On 15 August 1994, the Government informed the Special Rapporteur about investigations carried out by four fiscales and a civilian judge into the killing of Luis Felipe Romero, Vicente Ramos and Carmen Romero. The bodies of the victims were exhumed and autopsies performed. Testimony was gathered from an eye-witness. Information was solicited from the military garrison of Exile concerning the names and ranks of personnel participating in an operation which took place on the day of the killing of the three indigenous people. The first instance military tribunal gave an order to follow up this request. At the time of the reply, a conflict of competence was pending before the Supreme Court of Justice to decide whether the military or the civilian jurisdiction was to consider the case. Relatives of the victims had already received initial compensation payments and a further payment was being considered.

339. On 10 May 1994, the Government informed the Special Rapporteur that investigations into the mass graves found in the Perijá hills had been initiated. On 7 September 1994, the Government further reported that forensic anthropologists and anatomo-pathologists had examined the human remains found and concluded that they belonged to two men. Several fiscales were also participating in the investigations with a view to determining whether there was a relationship between cases of disappearances since 1991 and the case under examination.

Follow-up

340. In a letter dated 23 September 1994, the Special Rapporteur asked the Government to provide him with additional information on the progress of investigations under way, as stated by the authorities in several replies received during 1993 (see E/CN.4/1994/7, paras. 642-644) and, in particular, whether the strike of the tribunals referred to in these communications had ended.

341. On 3 October 1994, the Government provided a reply to the Special Rapporteur's follow-up communication of 22 September 1993, which contained some of the information requested by the Special Rapporteur in his follow-up letter of 23 September 1994. Thus, the Government informed him about the progress of investigations into allegations transmitted by the Special Rapporteur in 1992 and 1993. In the case of Verónica Tecsari (see E/CN.4/1994/7, para. 641 (b)), five civil servants had been charged with murder and the appropriate proceedings were under way before a civilian court. Investigations were being carried out by a military court in Caracas into the killing of Virgilio Fernández (see E/CN.4/1994/7, para. 641 (b)). In the case of Romer Figueroa Lizardi (see E/CN.4/1993/46, para. 640 and E/CN.4/1994/7, para. 643 (a)), in May 1993 the Supreme Court of Justice decided that the military judiciary was competent to deal with the case. The Government further informed the Special Rapporteur that investigations were continuing into the alleged death threats against Ivo Rodríguez Escudero (see E/CN.4/1994/7, paras. 640 and 642 (a)), but that he had not followed up an invitation to present his declaration to the Fiscalía. Antonio Rios (see E/CN.4/1993/46, para. 641 and E/CN.4/1994/7, para. 644) had been released from prison.

Observations

342. The Special Rapporteur thanks the Government for its willingness to cooperate with his mandate and the information provided in reply to a number of his communications. He remains, nevertheless, concerned at the reports and allegations brought to his attention. In this context, he would like to call on the authorities to take all necessary steps to ensure that conditions of detention in prison facilities conform to internationally recognized standards, and to ensure that security personnel in prisons fully respect the restrictions on the use of force and firearms, as contained in the pertinent international instruments. The Special Rapporteur calls on the authorities to conduct exhaustive and impartial investigations into all incidents of violence, with a view to evaluating the conduct of the security personnel involved, and to ensure that those found to have committed crimes are punished.

343. The Special Rapporteur is also concerned at reports of decisions in which the Supreme Court of Justice found that competence in cases involving human rights violations by security forces personnel belonged to the military courts. Experience in other countries has shown that this almost always results in impunity. The Special Rapporteur therefore urges the Government to ensure that judges participating in military tribunals hearing cases of security forces personnel accused of human rights violations are independent, impartial and competent, and that the rights of victims and witnesses to participate in the proceedings are fully respected.

Yemen

344. The Special Rapporteur sent an urgent appeal to the Government after being informed that death sentences imposed on Hussein Muhammad 'Abdullah al-Ajrab and 13 other persons in the Yemen Arab Republic prior to its unification with the former People's Democratic Republic of Yemen were upheld by the ruling Presidential Council. Fears were expressed that their trials had not been in conformity with internationally recognized fair trial standards. Five of those sentenced to death were said to have been executed, while the remaining nine were said to face imminent execution (8 August 1994). At the time the present report was finalized, no reply had been received from the Government.

Observations

345. The Special Rapporteur wishes to express concern at these allegations and regrets the lack of response from the Government. He also fears that a large number of deaths, including extrajudicial, summary or arbitrary executions, have occurred during the armed conflict between the northern and southern parts of Yemen during the course of the year. No mechanism has been put into place by the international community to monitor respect for human rights during the hostilities and in their aftermath.

Zaire

Information received and communications sent

346. As in former years, the Special Rapporteur received reports and allegations indicating that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Zaire. Most of these violations were said to have been committed by members of the security forces and, in particular, the Division spéciale présidentielle (Special Presidential Division, DSP). The victims were reported to have included members of the political opposition, as well as civilians who were killed when security forces resorted to indiscriminate use of lethal force in the context of public demonstrations, or simply at random. For an in-depth analysis of the human rights situation in Zaire, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Special Rapporteur on the situation of human rights in Zaire, Mr. Roberto Garretón (E/CN.4/1995/67).

347. The Special Rapporteur sent an urgent appeal to the Government of Zaire after being informed of several attempts against the life of Etienne Tshisekedi and the arrest of his assistant, Léon Kadima Muntuntu, allegedly by members of the security forces (27 July 1994). The Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution, by members of the security forces between early 1993 and April 1994, of the following persons: Salumu Didier Tumuche at Kabondo; Madimba Kapia in Kinshasa; Abbé Mukoma at Kananga; 52 unidentified civilians in the Kimbanseke area of Kinshasa; five unidentified civilians at the Grand Stadium of Kinshasa; Muvingi Nyamwisi, at Cité de Butembo; Frédéric Imbamba, in front of the Palais de Peuple at Kinshasa; Nkunku Mbala, at Kinshasa; Umba Popa, Christine and Elisabeth Bado, at Kingasani; Papy Thambo, at Lemba; Tshibaka, at Gombé; Alain Lianga Nkoy, Claude Pemba Mvubu, Lutete Longo, Kapiemba Kanyindu and Albert Kabamba, in Kinshasa; Martin Matuisi, at Kingasani; Yumbu and 16 others, including four-year-old Ntumba Gary, at Kingasani and Masina; Patrice Wami Risasi, at Kisangani; Lucien Dinganga Fongo, in Kinshasa; Makungo, at the Collectivité Mungindu; Télé, in the North-Kivu region; Willy Munkulazadi Kweti, in the Matété area of Kinshasa; Kibangi Mandala and an unidentified person in Kinshasa.

Communications received

348. The Government replied to the Special Rapporteur's urgent appeal of 27 July 1994 and informed him that Etienne Tshisekedi had not been the victim of attacks. His bodyguards had illegally closed the street in front of his residence and had beaten to death, without any reason, three civil guards (gardiens de paix) who happened to pass by. Gendarmes were subsequently deployed to restore public order and, when shot at by the bodyguards, returned fire in self-defence. No one was killed during the exchange of fire (21 September 1994).

Follow-up

349. On 17 December 1993, the Government acknowledged receipt of the Special Rapporteur's urgent appeal of 19 October 1993 (see E/CN.4/1994/7, para. 658).

In a letter dated 23 September 1994, the Special Rapporteur asked the Government whether any progress had been made in the investigations into this case.

Observations

350. The Special Rapporteur is deeply concerned at the disturbing reports of violations of the right to life brought to his attention almost regularly during the past three years, including excessive and arbitrary use of force with virtually complete impunity, extrajudicial killings in the context of ethnic violence, particularly in the areas of Kasai, Shaba and the Kivu region, and threats against members of the political opposition. Repeated calls on the authorities to take decisive action to investigate such violations and punish those responsible have not been heard.

351. Violence in the refugee camps in the Kivu region during the past year also gives rise to concern. Many thousands of Rwandese refugees are under constant threat from the Zairean security forces as well as members of the militias supporting the former Rwandese Government. A pledge made by the Government of Zaire to disarm members of the former Rwandese Government Forces and the militias has not been fulfilled. UNHCR and non-governmental organizations providing humanitarian aid also face serious security risks and are not in a position to protect the refugees. Steps to protect the lives of people living in camps in Goma and elsewhere along the border with Rwanda are urgently needed.

V. CONCLUSIONS AND RECOMMENDATIONS

352. For the third time in three years of activities, the Special Rapporteur is compelled to conclude, at the end of his cycle of activities and reporting, that extrajudicial, summary or arbitrary executions have not ceased and that there are no indications to the effect that the number of violations of the right to life has decreased. The Special Rapporteur continued to receive numerous allegations comprising all the different manifestations of violations of the right to life that fall within his mandate. In some countries or situations, changes in legislation or practice concerning capital punishment, the signing of peace agreements, or increased awareness of human rights issues and the willingness to improve respect for human rights, are encouraging and give rise to hope. In others, laws extending the scope of capital punishment or reinforcing impunity, armed conflicts flaring up in areas hitherto calm as well as old ones that resume, continue or take new turns, entail new, or renewed, violations of the right to life.

353. Against this backdrop, the Special Rapporteur has continued his efforts to exercise his mandate as effectively as possible by responding to the information that has come before him, following up on allegations transmitted to Governments, enhancing contacts with Governments and sources of such allegations as well as cooperation with other United Nations mechanisms dealing with human rights issues, carrying out on-site visits and following up on them. In doing so, he also took into consideration the requests to pay special attention to a number of issues made to him in various resolutions of the Commission on Human Rights.

354. The present report is the third presented by the Special Rapporteur since he assumed his functions in June 1992, following Mr. S. Amos Wako who had served as Special Rapporteur during the first 10 years of the existence of a mandate examining questions related to the right to life. It also marks the end of the three-year mandate extended to him by the Commission on Human Rights in resolution 1992/72 of 5 March 1992. During this period, the Special Rapporteur continued to develop and refine the procedures to implement the mandate and the methods of work applied, as described in detail in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 17-67). In the following sections, the Special Rapporteur presents an overview of his activities together with an analysis of their effectiveness and tendencies observed since 1992, followed by conclusions and recommendations concerning the different aspects of his mandate.

A. Activities - procedural matters

Communications sent

355. In 1994, the Special Rapporteur transmitted allegations concerning violations of the right to life of more than 3,000 persons to 65 Governments. On 203 occasions, the Special Rapporteur sent urgent appeals on behalf of more than 2,300 persons. Allegations concerning more than 700 persons were transmitted to the Governments concerned by letter. Table 1 gives an overview of the communications sent by the Special Rapporteur since he assumed his functions in June 1992.

Table 1

Communications sent by the Special Rapporteur since 1992

Year	1.	2.	3.	4.	5.	6.	7.	8.
1992	143	+1,500	42	+1,900	40	+3,400	54	--
1993	217	+1,300	52	+2,300	51	+3,600	69	30
1994	203	+2,300	53	+700	45	+3,000	65	35

1. Urgent appeals sent by the Special Rapporteur.

2. Number of persons on whose behalf urgent appeals were sent.

3. Number of Governments to which urgent appeals were sent.

4. Number of persons whose cases were transmitted by letter.

5. Number of Governments to which letters were sent.

6. Total number of persons on whose behalf the Special Rapporteur acted (total cases).

7. Total number of Governments to which the Special Rapporteur addressed allegations.

8. Number of Governments to which the Special Rapporteur sent follow-up communications.

356. As can be seen from table 1, the number of urgent appeals has decreased slightly from 1993 to 1994, while the number of persons on whose behalf such appeals were sent has risen dramatically. This is, in part, due to the fact that some of the urgent appeals transmitted referred to large groups of people not identified by name. Seven urgent appeals were sent on behalf of groups composed of more than 100 persons whose lives were said to be at risk or who had allegedly died in particularly grave incidents of excessive or arbitrary use of force. 2/ A total of 171 urgent appeals expressed concern for alleged violations of the right to life of identified individuals. A considerable number of these appeals were sent for groups: 18 urgent appeals concerned more than 10 identified persons, a further 27 were sent on behalf of groups between 5 and 10 identified persons. In 66 cases, the subject of urgent appeals was only one person.

357. At the same time, a sharp decrease in allegations transmitted by letter can be observed when comparing the figures for 1994 and 1993. This may find an explanation partly in the fact that, during 1994, the Special Rapporteur transmitted only those allegations concerning groups of unidentified persons transmitted by credible sources where the particular gravity of the case warranted such urgent action and where sufficient details were provided so as to allow for meaningful follow-up. However, another, preoccupying reason is that due to severe limitations on the availability of staff assisting the

Special Rapporteur in the discharge of his mandate during the past year, some of the documents received which contained allegations of violations of the right to life simply could not be processed (see also below paras. 369-370).

358. The experience of the past years has clearly shown that the allegations received by the Special Rapporteur are only approximately indicative of the occurrence of violations of the right to life in different parts of the world. Much depends on the availability of information and the degree to which human rights activists may carry out their activities, as well as their level of organization. As a consequence, the Special Rapporteur continues to find himself in a situation where for some countries the information brought to his attention is very complete, and longstanding contacts with the sources permit the Special Rapporteur to obtain the details needed to transmit allegations to the Governments, while other countries simply do not figure in his report because no information at all has been received, or the communications are not sufficiently specific to allow them to be processed within the framework of his mandate. Again, the shortage of staff to assist the Special Rapporteur is detrimental as it hampers such information being actively sought and possible sources of information contacted in cases where, for example, violations of the right to life are reported in the media but no allegations are submitted to the Special Rapporteur.

359. Nevertheless, it is interesting to observe that, for the first time since 1992, more cases have been transmitted in urgent appeals with the aim of preventing violations of the right to life which were feared to be imminent, than by letter, that is, when the alleged extrajudicial, summary or arbitrary execution had already occurred. While, for the reasons referred to in the preceding paragraph, the figures contained in table 1 should be taken with caution, they do suggest an overall tendency towards preventive action. This is most welcome, and the Special Rapporteur hopes that it may be accompanied by an increase in the protection of those whose lives are under threat.

Replies received from Governments and follow-up

360. Tables 2 and 3 contain information regarding the responsiveness of Governments to allegations transmitted to them by the Special Rapporteur:

Table 2

Replies received from Governments to allegations transmitted since 1992

Year	1.	2.	3.	4.	5.	6.	7.	8.	9.
1992	54	26	26	--	--	--	28	--	28
1993	69	38	18	36	--	30	22	33	25
1994	65	33	8	27	33	35	20	24	29

1. Total number of Governments to which the Special Rapporteur transmitted allegations.

2. Total number of Governments that provided replies.

3. Number of Governments that provided replies to allegations transmitted in 1992.

4. Number of Governments that provided replies to allegations transmitted in 1993.

5. Number of Governments that provided replies to allegations transmitted in 1994.

6. Number of Governments to which the Special Rapporteur sent follow-up communications.

7. Number of Governments that had not provided replies to allegations transmitted in 1992.

8. Number of Governments that had not provided replies to allegations transmitted in 1993.

9. Number of Governments that have not provided any replies to allegations transmitted to them.

Table 3

Responsiveness of Governments

Year	1.	2.	3.	4.	5.	6.	7.
1992	54	48.1%	62.9%	+3,400	+1,500	44.1%	--
1993	69	52.2%	65.2%	+3,600	+1,000	27.8%	30
1994	65	50.8%	50.8%	+3,000	+800	26.7%	35

1. Total number of Governments to which the Special Rapporteur transmitted allegations.

2. Percentage of Governments that provided replies during the year in which the allegations were transmitted to them.

3. Percentage of Governments that, by 25 November 1994, had provided replies to the allegations transmitted to them during the year indicated.

4. Total number of persons on whose behalf the Special Rapporteur transmitted allegations (total cases).

5. Number of cases to which replies were received from Governments by 25 November 1994.

6. Percentage of cases to which replies were received from Governments by 25 November 1994.

7. Number of Governments to which the Special Rapporteur addressed follow-up communications.

361. A comparison of replies received from the Governments concerned to the Special Rapporteur's urgent appeals and letters shows that the ratio of the number of Governments which received allegations from the Special Rapporteur to those which provided replies during the same year has not changed substantially since 1992. The overall level of responsiveness rose from 48.1 per cent in 1992 to 52.2 per cent in 1993. By 25 November 1994, 62.9 per cent of all Governments that received allegations in 1992 had provided replies concerning 1,500 persons, 44.1 per cent of the total of 3,400 persons on whose behalf the Special Rapporteur had acted in 1992. With regard to the allegations transmitted by the Special Rapporteur in 1993, 65.2 per cent of all Governments had provided replies by 25 November 1994. Their replies concerned 1,000 persons, which represents only 27.8 per cent of the total of 3,600 persons who were said to have suffered violations of their right to life during 1993.

362. For 1994, the percentage of Governments that have replied during the year in which the allegations were received is slightly lower than in 1993 (50.8 per cent). At the time the present report was finalized, replies had been provided concerning the cases of 800 persons, that is, 26.7 per cent of the total of 3,000. However, some of these Governments received the allegations as recently as in October or November 1994.

363. While one has to account for the fact that replies to cases transmitted in 1992 have now been received over a period of more than two years, the figures for 1993 and 1994 suggest a tendency rather towards a reduction of the responsiveness of Governments than an increase. This appears to be so despite the efforts made by the Special Rapporteur to follow up on allegations sent during previous years, and to give Governments better guidance as to the information needed by providing them with a reply form. The Special Rapporteur is concerned that the Governments of the following countries 3/, as of 25 November 1994, had not replied to specific allegations transmitted to them during:

(a) 1992: Afghanistan, Azerbaijan, Burundi*, Cambodia, Chile*, Dominican Republic, Equatorial Guinea, Honduras, Indonesia*, Iran (Islamic Republic of)*, Malaysia, Mali, Paraguay, Rwanda, Saudi Arabia*, Togo*, Ukraine*, Yemen*, Zaire*;

(b) 1993: Azerbaijan, Burundi*, Cambodia, Central African Republic, Comoros, Djibouti, Equatorial Guinea, Honduras, Jamaica, Kyrgyzstan, Lebanon, Malawi*, Myanmar*, Papua New Guinea, Paraguay, Rwanda, Sierra Leone, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan*, Yugoslavia, Zaire* and Zimbabwe*;

(c) 1994: Afghanistan, Bolivia, Bosnia and Herzegovina, Cambodia, Central African Republic, Djibouti, Honduras, Kazakhstan, Kyrgyzstan, Lebanon, Niger, Portugal, Rwanda, Sierra Leone, Singapore, Tajikistan, Trinidad and Tobago, Turkmenistan, United Arab Emirates and Uruguay.

364. The Special Rapporteur is concerned that some of these countries have not replied to any of the communications transmitted to them since 1992. He reiterates his appeal to all Governments to cooperate with his mandate, in the common interest of a better protection of the right to life.

365. In a number of cases where Governments did reply and the contents of their replies were sent to the sources of the allegations, according to the procedures established, the latter provided the Special Rapporteur with comments and observations. While in some instances the sources confirmed the information received from the Government or stated that they did not possess of any further details on certain cases, the majority of replies were contested by the sources which on a number of occasions provided additional elements to reinforce their earlier allegations. Due to the lack of human resources, it was impossible to take initiatives with a view to clarifying contradictions in the information received from Governments and sources. Under the present circumstances, it is not possible for the Special Rapporteur to monitor in a comprehensive and systematic manner the way Governments comply with their obligations under international law to protect the right to life and to ensure exhaustive and impartial investigations in cases where this right appears to have been violated.

Follow-up on recommendations

366. The apparent lack of attention given by the members of the Commission on Human Rights to the conclusions and recommendations presented by special rapporteurs mandated by them is another point of concern to the Special Rapporteur. This lack of interest was sadly illustrated by the case of Rwanda, where decisive action on the part of the international community early in the year might have rendered the situation in this country less susceptible to the disastrous events there after 6 April 1994. In his report on the visit to Rwanda in April 1993 (E/CN.4/1994/7/Add.1) and in his introductory statement before the Commission on Human Rights in March 1994, the Special Rapporteur had presented his concern at the alarming level of violations of the right to life in that country, without effect. Moreover, in the conclusions of his annual report, the Special Rapporteur had warned of the possible consequences of communal violence and, citing Burundi, Rwanda and Zaire among the countries where violent confrontations between members of different ethnic groups had been reported, wrote: "Such conflicts, if allowed to continue, may degenerate into genocide" (E/CN.4/1994/7, para. 709).

367. However, Rwanda is not the only example where the international community chose to ignore recommendations made by one of its emissaries after an on-site visit. In fact, the Special Rapporteur has not received any concrete information concerning the implementation of the recommendations formulated after the publication of the report on his visit to Peru.

368. In this context, the Special Rapporteur wishes to note that, while invitations to undertake on-site visits are most welcome, this should not be the end of the cooperation with the Government concerned. In other words, it is not enough to invite the Special Rapporteur and show cooperativeness during the mission if the recommendations made as a result thereof are ignored. The Special Rapporteur has repeatedly stressed that he views visits as the beginning of a dialogue aimed at strengthening respect for the right to life. His conclusions, even though they may refer to violations of the right to life, are not put forward in an accusatory spirit. Rather, the Special Rapporteur believes that recognizing the problems encountered, and naming them, constitutes the precondition for attempts to solve them. On the basis of his experience and expertise in the matter, the Special Rapporteur offers once again his assistance.

Resources

369. The Special Rapporteur has repeatedly expressed concern at the scarce resources, both human and material, put at his disposal for the implementation of the mandate entrusted to him. In his report to the Commission on Human Rights at its fiftieth session, he called for an increase of the resources of the Secretariat so as to be able to carry out the day-to-day work involved in the assessment of incoming information, the preparation of urgent appeals and case summaries to be transmitted to the Governments concerned, the organization of missions, etc., which would require at least three Professional staff members and one secretary working exclusively on the mandate (E/CN.4/1994/7, para. 727). During the past year, staff assistance for the Special Rapporteur has not only not increased but, on the contrary, diminished, as the number of mandates to be serviced by the Secretariat and the work related to them has risen considerably, particularly after the establishment of a human rights field operation in Rwanda.

370. An enormous effort was made to continue, nevertheless, the work of the mandate. However, the Special Rapporteur notes with regret that this could not be done as thoroughly as hoped, and indeed envisaged. Priorities had to be set. While the Special Rapporteur is satisfied that in all cases where information received from credible sources indicated the need for his immediate intervention, urgent appeals were sent to the Governments concerned, it was not possible to process all the reports and allegations of extrajudicial, summary or arbitrary executions that have come before him which, according to the procedures established for the mandate, should have been transmitted by letter. Furthermore, as stated above, no active research on information or additional details on allegations received could be conducted. The number of entries in the database which was established in 1992 has reached 4,000, referring to alleged violations of the right to life of more than 10,000 persons in almost 100 countries. With this in mind, it comes as no surprise that the follow-up of allegations transmitted since 1992 which had remained without reply, or where the replies received from Governments could not be considered as final, also suffered from the lack of human resources available to service the mandate of the Special Rapporteur.

371. The Special Rapporteur appeals to the international community to see to it that the mandate on extrajudicial, summary or arbitrary executions be allotted sufficient human and material resources so that he may carry out his tasks effectively.

B. Violations of the right to life - allegations received and acted upon

372. Little appears to have changed with regard to the different types of violations of the right to life on which the Special Rapporteur has taken action during 1994. The different countries where such violations are said to have taken place may have varied to some extent, but the analysis of the problems shows that the causes for their continuing existence have remained very much the same. As in the past, impunity is the key to the perpetuation of violations of the right to life in most countries. While this continuity in the problems observed, with regard to both causes and manifestations, may give rise to feelings of impotence or even resignation, it should, on the other hand, permit the identification of measures that would need to be taken to redress these problems, and to concentrate on the implementation of such measures. The Special Rapporteur encourages Governments, intergovernmental organizations and non-governmental organizations to continue efforts in this direction and build on progress made in some areas. He hopes that his suggestions and recommendations, as expressed in earlier reports and contained in the present one, may be of use in this regard.

1. Capital punishment

373. In his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur presented a detailed analysis of his concerns with regard to the death penalty (E/CN.4/1994/7, paras. 673-687). His action in response to allegations of violations of the right to life in connection with capital punishment continued to be guided by:

(a) The desirability of abolition of the death penalty, as expressed on numerous occasions by the General Assembly, the Human Rights Committee and the Economic and Social Council;

(b) The need to ensure the highest possible standards of independence, competence, objectivity and impartiality of judges and juries and full respect of guarantees for a fair trial in proceedings which may lead to the imposition of the death penalty, including full respect for the right to an adequate defence, the right to appeal and to seek pardon, commutation of the sentence or clemency; and

(c) Full observation of special restrictions on the application of the death penalty for crimes committed by persons below 18 years of age; mentally retarded or insane persons; pregnant women and young mothers.

374. The desirability of the abolition of capital punishment was reaffirmed strongly by the Security Council, which, in its resolutions 808 (1993) of 22 February 1993 and 955 (1994) of 8 November 1994 on the establishment of international criminal jurisdictions for the former Yugoslavia and Rwanda, respectively, has excluded the death penalty, establishing that imprisonment is the sole penalty to be imposed by these tribunals for crimes as abominable

as genocide and crimes against humanity. The Special Rapporteur welcomes this endorsement by the Security Council of a tendency favourable to the protection of the right to life even in circumstances where those who may benefit from this protection have themselves not shown respect for the right to life.

375. In this context, reports of an expansion of the scope of the death penalty, in the recent past, in the national legislations of a number of countries are most disappointing. In 1993, the Special Rapporteur expressed concern at such tendencies, clearly contrary to the trend observed at the international level, in Bangladesh, China, Egypt, Pakistan and Saudi Arabia. He had also approached the Governments of Peru and of the United States of America after being informed of proposals to widen the scope of capital punishment in a new constitution and a new federal crime bill, respectively. During 1994, the Special Rapporteur was disturbed to learn that the legislative initiatives had been carried out in both countries, in the case of the latter both on the federal level and in the State of Kansas. The Government of Peru provided a reply explaining its points of view. Even though the Special Rapporteur's concerns in the matter persist (see above para. 262), the willingness of the Peruvian authorities to enter into a dialogue on the issue is much appreciated. The Special Rapporteur notes with regret that the Government of the United States of America did not respond to any of the communications transmitted by him during the year. An expansion of the scope of the death penalty during 1994 was also reported in Nigeria. The Special Rapporteur emphasized once again that the scope of the death penalty should never be extended and invites those States which have done so to reconsider.

376. Reports were also received concerning death sentences imposed after proceedings in which the defendants did not fully benefit from the rights and guarantees for a fair trial contained in the international instruments. Such reports concerned the following countries: Algeria, Bosnia and Herzegovina, Central African Republic, China, Egypt, Iran (Islamic Republic of), Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Myanmar, Nigeria, Sierra Leone, Singapore, Trinidad and Tobago, Ukraine, United Arab Emirates, United States of America and Yemen.

377. Proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. All defendants in capital cases must benefit from the full guarantees for an adequate defence at all stages of the proceedings, including adequate provision for State-funded legal aid by competent defence lawyers. Defendants must be presumed innocent until their guilt has been proven without leaving any room for reasonable doubt, in application of the highest standards for the gathering and assessment of evidence. All mitigating factors must be taken into account. A procedure must be guaranteed in which both factual and legal aspects of the case may be reviewed by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. In addition, the defendants' right to seek pardon, commutation of sentence or clemency must be ensured.

378. While in many countries the law in force takes account of the standards for fair trials as contained in the pertinent international instruments, this alone does not exclude that a death sentence may constitute an extrajudicial,

summary or arbitrary execution. It is the application of these standards to each and every case that needs to be ensured and, in case of indications to the contrary, verified, in accordance with the obligation under international law to conduct exhaustive and impartial investigations into all allegations of violations of the right to life.

379. Moreover, the Special Rapporteur reiterates his concern that special jurisdictions to speed up proceedings, often set up as a response to acts of violence committed by armed opposition groups or situations of civil unrest, do not offer these guarantees as the standards of due process and respect for the right to life of proceedings before them are almost always lower than in ordinary criminal proceedings. This is particularly worrying, as these special jurisdictions are generally used in situations which, in themselves, usually entail an increase in human rights violations. Reference is made to the sections of this report on Algeria, Egypt or Nigeria.

380. As concerns death sentences handed down on persons convicted for crimes committed when they were under 18 years of age, or legislation allowing for the imposition of capital punishment on minors, whether or not this legislation is applied in practice, the Special Rapporteur expresses concern at the allegations and reports received concerning Algeria, Pakistan and the United States of America. As regards the United States of America, the Special Rapporteur also continued to receive allegations of death sentences imposed, and carried out, in cases where the defendants were said to suffer from mental retardation. In addition, allegations were received concerning one such case in Japan.

381. The Special Rapporteur calls on all Governments concerned to revise legislation, where appropriate, and to ensure that in both their legislation and practice the guarantees, safeguards and restrictions on the application of capital punishment, as contained in the pertinent international instruments, are fully respected.

382. Among the many preoccupying cases that have come before the Special Rapporteur during the past year, one warrants special mention: the execution of Glen Ashby in Trinidad and Tobago on 14 July 1994, while appeal procedures were still pending. The Special Rapporteur wishes to express his most profound concern at this clear violation of the right to life. He recalls, in this context, the 1993 judgement of the Privy Council of the United Kingdom of Great Britain and Northern Ireland, the supreme judicial instance for the member States of the Commonwealth, in which it held that awaiting the execution of a death sentence for five years after it had been handed down constituted in itself cruel and inhuman punishment. Glen Ashby was executed four years and eleven months after having been sentenced to death in June 1989. In his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur had expressed his concern that the decision of the Privy Council might encourage Governments to carry out executions of death sentences more speedily, which, in turn, was likely to affect defendants' rights to full appeal procedures (E/CN.4/1994/7, para. 682). The Special Rapporteur reiterates his view that the judgement should rather be interpreted in the light of the desirability of the abolition of capital punishment: the risk that the imprisonment of a person on death row becomes cruel and inhuman

punishment could easily be avoided by not imposing the death sentence in the first place. To solve the problem by killing the person is simply unacceptable.

383. The Special Rapporteur is also deeply concerned at the reports of the execution of Adzhik Aliyev in Tajikistan, one day before the signing of an agreement under which he may have been eligible for release from prison.

384. In this context, the Special Rapporteur would like to express his view that, although the death penalty is not prohibited under international law, there is no such thing as a right to capital punishment, restricted only by some limitations contained in the pertinent international instruments. In view of the irreparability of loss of life, the impossibility of remedying judicial errors and, indeed, the well-founded doubts expressed by a wide range of experts in criminology, sociology, psychology, etc. as to the deterrent effect of capital punishment, the Special Rapporteur once again calls on the Governments of all countries where the death penalty still exists to review this situation and make every effort towards its abolition.

385. Finally, the Special Rapporteur has received encouraging reports concerning a project currently under consideration by the Council of Europe with a view to a protocol additional to the European Convention on Human Rights aiming at the abolition of capital punishment under any circumstances and a moratorium on the execution of death sentences. The Special Rapporteur welcomes this initiative and encourages Governments to follow the example, either unilaterally or within other regional human rights institutions. As to activities undertaken by other United Nations organs, the Special Rapporteur would like to mention a worldwide survey carried out by the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat on developments with regard to capital punishment. 4/

2. Death threats

386. Reports and allegations alerting the Special Rapporteur to situations where the lives and physical integrity of persons are feared to be at risk continue to account for a large part of the information brought to his attention. In the past year, he has transmitted urgent appeals with the aim of preventing loss of lives to the Governments of: Angola, Argentina, Bangladesh, Brazil, Colombia, Cuba, El Salvador, Guatemala, Haiti, Honduras, India, Iran (Islamic Republic of), Mexico, Nepal, Peru, Philippines, Rwanda, South Africa, Togo, Turkey and Venezuela. As in the past, numerous human rights activists, trade unionists, community workers, members of political opposition parties and movements, writers and journalists, lawyers and persons working in the administration of justice were among those reported to be at serious risk. The Special Rapporteur noted with profound concern that the following persons on whose behalf he had sent urgent appeals, in 1994 or earlier, were reported to have been killed: Manuel Cepeda Vargas (Colombia); as well as Feizollah Meikhoubad and the Reverends Mehdi Dibaj and Mikhailian (Islamic Republic of Iran). Moreover, patterns of intimidation and threats, often followed by extrajudicial, summary or arbitrary executions, seem to persist in a number of countries such as Brazil, Colombia, El Salvador,

Guatemala, South Africa and Turkey, despite numerous urgent appeals in which the Special Rapporteur had called on the authorities to ensure effective protection of the right to life.

387. The Special Rapporteur urges all Governments to adopt effective measures, in accordance with the requirements of each particular case, to ensure full protection of those who are at risk of extrajudicial, summary or arbitrary execution. The Special Rapporteur calls on the authorities to conduct investigations into all instances of death threats or attempts against lives which are brought to their attention, regardless of whether or not any judicial or other procedures have been activated by those under threat. The Special Rapporteur also feels that, in circumstances where political dissent, social protest or the defence of human rights are viewed, and reacted to, as a threat by certain State authorities or sectors of the civil society, statements by the Governments concerned recognizing unequivocally their legitimacy could help create a climate more favourable for their exercise and thus reduce the risk of violations of the right to life. With a view to effective protection in cases of death threats, the authorities might consider establishing funds for the training and employment of security personnel selected by the persons at risk. This might be particularly helpful where there is fear that the threats emanate from State security forces. Steps taken in this respect by the Government of Colombia are most welcome.

3. Deaths in custody

388. During 1994, the Special Rapporteur received numerous reports concerning deaths in custody. Such deaths were said to be the result of torture in: Argentina, Bolivia, Cambodia, Cameroon, China, Colombia, Egypt, Haiti, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Mexico, Morocco, Pakistan, Peru, Philippines, Syrian Arab Republic, Tajikistan and Turkey. In some instances, lack of medical attention after torture was said to have contributed to the death of the detainees. In other cases, it was reported that the prison conditions were such as to cause the death of persons detained or spark violence leading to the death of inmates. In Gabon, more than 70 clandestine immigrants were said to have died as a result of serious overcrowding. Particularly preoccupying reports of deaths in custody as a result of violence in overcrowded prison facilities, both between inmates and as a consequence of excessive and arbitrary use of force by security personnel in response to riots and attempts to escape, were received concerning Venezuela.

389. The Special Rapporteur is concerned at the persistence of allegations of deaths in custody suggesting patterns of violence against detainees, very often with a lethal outcome, in countries such as Cameroon, Colombia, India, Pakistan or Venezuela, without there being any indication of systematic investigations to determine causes and responsibilities, and to identify possible ways of redressing the situation. It is also disturbing that not only in countries where such patterns appear to exist, but as a general rule, there is very little indication of effective action to bring those responsible for extrajudicial, summary or arbitrary executions in custody to justice.

390. The Special Rapporteur appeals once again to all Governments to see to it that conditions of detention in their countries conform to the Standard

Minimum Rules for the Treatment of Prisoners and other pertinent international instruments. He also urges them to adopt adequate measures to ensure full respect for the international norms and principles prohibiting any form of torture or other cruel, inhuman or degrading treatment. Prison guards and other law enforcement personnel should receive training so as to be familiar with these norms as well as the rules and regulations concerning the use of force and firearms to prevent escape or control disturbances. The Special Rapporteur also calls on the competent authorities to prosecute and punish all those who, through action or omission, are found responsible for the death of any person held in custody, in breach of the aforementioned international instruments; to grant adequate compensation to the families of the victims; and to prevent the recurrence of violence against detainees. Furthermore, the Special Rapporteur appeals to all Governments to cooperate fully with the International Committee of the Red Cross.

4. Deaths due to abuse of force by law enforcement officials

391. The Special Rapporteur received a considerable number of allegations concerning violations of the right to life as a consequence of excessive or arbitrary use of force. Cases in this category were reported in Bangladesh, Brazil, Burundi, Cambodia, Chad, China, Colombia, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Mali, Mexico, Myanmar, Niger, Nigeria, Peru, Saudi Arabia, Sri Lanka, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela and Zaire. In Costa Rica, Djibouti, Guatemala, Indonesia, Togo and Zaire, numerous people were reportedly killed by security forces using excessive force against participants in demonstrations or other public manifestations of dissent. As in the past, the Special Rapporteur received alarming reports of deliberate use of firearms against minors: street children were reportedly killed by Brazilian military police, security forces personnel participating in "social cleansing" activities in Colombia and members of the Guatemalan police. Reports brought to the attention of the Special Rapporteur concerning the arbitrary killing of a large number of persons, including children, by members of the Israeli Defence Forces in the occupied territories were particularly disturbing.

392. Arbitrary and excessive force were also said to be resorted to by members of paramilitary groups or armed individuals cooperating with security forces or operating with their acquiescence. Sometimes, such groups were reported to have been established by the security forces themselves; in other cases they were said to be at the service of individuals or organizations for the defence of particular, in most cases economic, interests. Violations of the right to life by such paramilitary groups were reported in Brazil, Colombia, El Salvador, Guatemala, Haiti, Peru, the Philippines and Turkey.

393. The Special Rapporteur calls on all Governments to ensure that the security forces receive thorough training in human rights matters, in particular with regard to the restrictions on the use of force and firearms in the discharge of their duties. Such training should include methods of keeping crowds of people under control without resorting to excessive force. Full and independent investigations must be carried out into alleged deaths due to abuse of force, and all law enforcement officials responsible for the right to life must be held accountable. This obligation to investigate and

bring to justice those responsible for violations of the right to life extends to members of paramilitary groups. With regard to persistent acts of violence against street children, Governments should make efforts to strengthen assistance and education programmes.

5. Violations of the right to life during armed conflicts

394. Numerous reports suggest that deaths as a consequence of armed conflicts, both international and internal, in various parts of the world continue to occur on an alarming, and increasing, scale. During 1994, innumerable violations of the right to life were said to have been committed in a variety of countries and situations. Reports of killings of former combatants who had been captured or after they had laid down their arms, and particularly of civilians, were received from, for example, Afghanistan, Angola, Armenia, Azerbaijan, Colombia, Djibouti, Guatemala, Rwanda, Somalia, Sri Lanka, Tajikistan, Turkey, the conflict areas of the former Yugoslavia and Yemen. Many thousands of people not participating in armed confrontations were said to have lost their lives as direct victims of the conflict, for instance, through indiscriminate shelling or deliberate executions, or indirectly, as a consequence of sieges, blocking off water, food and medical supplies. As in the past, such measures were said to have particularly affected children, elderly and those in poor health.

395. The Special Rapporteur wishes to draw the attention of the international community once again to violations of the right to life in the context of communal violence. Communal violence, understood as acts of violence committed by groups of citizens of a country against other groups, were reported in Bangladesh, Burundi, Cameroon, Chad, Djibouti, Mali, Nigeria or Somalia. Rather than intervening to stop violence between different groups, government forces are often said to support one side in the conflict or even to instigate hostilities. In 1993, the Special Rapporteur warned that such conflicts, if allowed to continue, may degenerate into massacres or even genocide.

396. The Special Rapporteur calls on all parties to conflicts, international or internal, to respect the norms and standards of international human rights and humanitarian law which protect the lives of the civilian population and those no longer taking part in the hostilities. The Special Rapporteur also reiterates his call on all Governments of countries where acts of communal violence occur to do their utmost to curb such conflicts at an early stage, and to work towards reconciliation and peaceful coexistence of all parts of the population, regardless of ethnic origin, religion, language or any other distinction. With a view to prevention of excessive and arbitrary use of force in the context of armed conflicts, the Special Rapporteur stresses once again the importance of bringing to justice and punishing those responsible for such acts. Training of security forces personnel should include thorough instruction on human rights issues. Furthermore, provision should be made, for example, in peace agreements between Governments and armed groups, for reinsertion into civilian life of former combatants and effective protection of their security. 5/ The Special Rapporteur urges Governments to refrain from all propaganda and incitement to hatred and intolerance which might foment acts of communal violence or condone such acts.

6. Expulsion of persons to a country where their life is in danger

397. During the past year, the Special Rapporteur received allegations concerning the imminent extradition of one person from Macao to China, where it was feared that he would be sentenced to death in circumstances where his fair trial rights might not be guaranteed. The Special Rapporteur once again calls on all Governments to take due notice of the norms and principles contained in international instruments that refer to the question of extradition of persons to countries where their lives may be at risk. He urges them to refrain from extraditing a person in circumstances where respect for his or her right to life is not fully guaranteed.

7. Impunity

398. In his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur made ample reference to the obligation under international law to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant adequate compensation to the victims or their families, and to take effective measures to avoid the recurrence of such violations (see E/CN.4/1994/7, paras. 688-699). The right of every person to enjoy his or her human rights under protection, if necessary, of appropriate judicial and administrative institutions, is firmly anchored in such international instruments of human rights and humanitarian law as the Universal Declaration of Human Rights (arts. 6, 7 and 8), the International Covenant on Civil and Political Rights (arts. 2 (3), 9 (5) or 15 (2)), the Convention on the Prevention and Punishment of the Crime of Genocide (arts. I, IV, V and VII), the four Geneva Conventions of 1949 and the two Additional Protocols thereto of 1977, as well as a number of other conventions, declarations and resolutions.

399. With regard to impunity in cases of violations of the right to life, the Special Rapporteur wishes to refer, in particular, to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions (Economic and Social Council resolution 1989/65 of 24 May 1989), which set forth in detail the aforementioned obligations, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Human Rights Committee, the body established under the International Covenant on Civil and Political Rights to monitor compliance with the obligations contained in this treaty, has clearly stated, both in its general comments to article 6 of the Covenant and in a number of decisions, 6/ that States parties are required to investigate all human rights violations, in particular those affecting the physical integrity of the victim; to purge and try those responsible; to pay adequate compensation to the victims or their dependants; and to prevent the future occurrence of such violations. A single act is sufficient for a State party to be obliged to undertake these measures.

400. Impunity continues to be a central issue in the work of the Special Rapporteur, as it is the principal cause for the perpetuation of extrajudicial, summary or arbitrary executions. The way in which a Government reacts to human rights violations committed by its agents, through action or omission, clearly shows the degree of its willingness to ensure effective

protection of human rights. Very often, statements and declarations in which Governments proclaim their commitment to respect human rights are contradicted by a practice of violations and impunity.

401. The mechanisms of impunity are manifold. In his report to the Commission on Human Rights at the fiftieth session, the Special Rapporteur mentioned, and analysed, a number of them. These included, in some countries, impunity by law, through legislation exempting perpetrators of human rights abuses from prosecution, or impunity in practice, despite the existence of laws providing for the prosecution of human rights violators; threats and intimidation directed against victims of and/or witnesses to human rights violations, thereby jeopardizing investigations; and problems related to the functioning of the judiciary, particularly its independence and impartiality. During 1994, these were again the subject of a large number of reports received by the Special Rapporteur.

402. In the vast majority of alleged extrajudicial, summary or arbitrary executions brought to the attention of the Special Rapporteur over the past three years, sources report that either no investigation at all has been initiated, or that investigations do not lead to the punishment of those responsible. In many countries where perpetrators of human rights violations are tried before military courts, security forces personnel escape punishment due to an ill-conceived esprit de corps. In others, the civilian justice system does not function properly, often for lack of resources. Judges frequently lack independence and, in a number of countries, judges, lawyers, complainants and witnesses suffer from threats and harassment or become victims of extrajudicial, summary or arbitrary executions. National human rights institutions mandated to monitor the conduct of State agents often have no powers at all to implement their decisions or recommendations. The same applies, in some instances, to special commissions established to investigate particular cases of alleged violations of human rights. Reports resulting from these investigations are often not made public or are not known to have led to any follow-up action with a view to prosecuting those responsible. This adds to concerns that such commissions are used, in reality, as tools to evade the obligation to carry out thorough, prompt and impartial investigations into alleged violations of the right to life. Numerous examples to illustrate the different phenomena leading to impunity may be found in the section of the present report on country-specific situations.

403. The reports and allegations received indicate that breaches of the obligation to investigate alleged violations of the right to life and punish those responsible occur in most of the countries the Special Rapporteur is dealing with in the framework of his mandate. The Special Rapporteur reiterates his appeal to all Governments concerned to provide for an independent civilian justice system with an independent and competent judiciary and full guarantees for all those involved in the proceedings. Where national legislation provides for the competence of military tribunals to deal with cases involving violations of the right to life by members of the security forces, such tribunals must conform to the highest standards required by the pertinent international instruments as concerns their independence, impartiality and competence. The rights of defendants must be fully guaranteed before such tribunals, and provision must be made to allow victims or their families to participate in the proceedings.

404. The Special Rapporteur also calls on all Governments to conduct exhaustive and impartial investigations into all cases of alleged extrajudicial, summary or arbitrary executions, identify those responsible and bring them to justice, grant adequate compensation to the victims or their families, and take the necessary steps to prevent further violations, in conformity with their obligation under international law. The Special Rapporteur calls particularly on the Governments of those countries where patterns of violence seem to exist, often over years, to carry out in-depth investigations with a view to identifying the roots of these problems as well as ways and means of solving them. The Special Rapporteur also urges Governments to establish independent and effective mechanisms to control the conduct of law enforcement and other State agents.

405. Only in a small number of the cases that have come before the Special Rapporteur do Governments appear to be in a position to comply with this obligation through their national jurisdictions. Given the enormous importance, with a view to prevention, of bringing human rights violators to justice, the Special Rapporteur would like to suggest that, where national judicial institutions do not function, international jurisdiction in cases of violations of the right to life be considered as a means to combat impunity. Given the gravity and irrevocability of extrajudicial, summary or arbitrary executions, States should bring to justice those responsible in any territory under their jurisdiction, no matter where the violations were committed. The Special Rapporteur calls on all Governments to take an initiative towards the recognition of international jurisdiction over violators of the right to life and to express explicitly and unequivocally the obligation to bring them to justice in any territory under their jurisdiction. The situation with regard to torture and other cruel, inhuman or degrading treatment or punishment, where such international jurisdiction has been established under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, may serve as an example in this regard.

406. In this context, the Special Rapporteur also wishes to refer to the international criminal tribunals established under Security Council resolutions 808 (1993) and 955 (1994) for a number of serious crimes, including violations of the right to life, committed in the former Yugoslavia and in Rwanda. The Special Rapporteur welcomes these initiatives. He appeals to all Governments to cooperate fully with these tribunals, in the interest of holding the authors of such crimes committed in the former Yugoslavia and Rwanda responsible as well as of the possible deterrent effect this may have in other, potentially similar situations. Concerns have been raised as to the apparent selectivity with regard to the countries for which international tribunals have been established. In fact, the former Yugoslavia and Rwanda are not the only conflict areas where massive violations of human rights and humanitarian law justify such an institution. Others, such as Angola or Cambodia, come readily to mind. The Special Rapporteur feels that international conventions providing for a combination of international jurisdiction over violators of the right to life and an international criminal court may help to overcome this perception of selectivity and contribute to a more impartial, more comprehensive approach to the problems of impunity. Such an international criminal court would have to be endowed with an adequate mandate and sufficient means so as to be in a position to conduct proper investigations and ensure the implementation of its decisions.

407. As regards the obligation of States to provide compensation to the victims of violations of the right to life or their families, the Special Rapporteur notes with concern the numerous reports received which indicate that no such compensation is received. In most cases, this appears to be a corollary of impunity. In others, the Special Rapporteur is informed that judgements handed down by courts provide for indemnification to be paid, but in practice no such payments are made. The Special Rapporteur calls on all Governments to grant adequate compensation to the victims of human rights violations and their families, in compliance with the pertinent international instruments.

408. In this context, the Special Rapporteur also notes that neither of the two Security Council resolutions establishing international criminal jurisdictions for the former Yugoslavia and Rwanda contains provisions concerning indemnification for the victims. The Special Rapporteur feels that the establishment of an international fund for reparation payments should be considered. This might permit at least some compensation to be paid to the victims or their families which would undoubtedly enhance their faith in the work of these tribunals and their willingness to cooperate with them.

409. As stated in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, para. 708), the Special Rapporteur wishes to point out that the obligation to investigate human rights violations also extends to the United Nations itself and the actions undertaken by personnel of its peace-keeping and observer missions. Reference is made, in this context, to the section in the present report on Somalia.

410. The Special Rapporteur has learnt recently that efforts are under way to amend the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (ST/CSDHA/12) produced by the Crime Prevention and Criminal Justice Branch of the United Nations Secretariat in May 1991. The Special Rapporteur will once again try to establish contacts with the Branch, with a view to coordinating efforts in a field of common concern and providing whatever assistance may be useful in the further development of the mandate.

C. Issues of special concern to the Special Rapporteur

411. The following sections contain conclusions and recommendations, as appropriate, in response to requests for special attention to violations of the right to life directed against certain groups of victims, or in determined situations, as well as on a number of issues which the Special Rapporteur feels are of particular importance.

1. Violations of the right to life of minors, particularly street children

412. The Special Rapporteur transmitted more than 152 cases of alleged violations of the right to life where the victims were said to be under 18 years of age, the youngest only 5 months old. In nine other cases, the children concerned were said to have been under 10. As in the case of women, these are the cases where it was specifically reported that the victims were minors, or where the age of the children was communicated to the Special Rapporteur. Allegations concerning minors were sent to the following

16 Governments: Brazil (3 cases), Cambodia (2), Chad (2), Colombia (12), Djibouti (2), Guatemala (17), Haiti (1 identified 17-year-old as well as the children living in the "Lafanmi Selavi" orphanage), Indonesia (2), Iran (Islamic Republic of) (1), Israel (18), Mexico (1), Peru (3), Togo (1), Turkey (6), United Kingdom of Great Britain and Northern Ireland (1), United States of America (1). Ten of the victims were said to have been living as street children in Brazil, Colombia and Guatemala.

413. The Special Rapporteur is deeply concerned at reports and allegations concerning violations of the right to life of minors. As in former years, children were said to have been among the victims of all different categories of violations of the right to life brought to his attention. In addition, persons and institutions striving to provide assistance and education to children and adolescents without homes continued to be targets of attacks and threats in Brazil, Colombia and Guatemala. The Special Rapporteur was particularly shocked at the numerous reports received of arbitrary and excessive use of lethal force against children and youths by Israeli Defence Forces in the occupied territories. The Special Rapporteur calls once again on all Governments to ensure full respect for the right to life of children and to effectively protect them from all forms of violence.

2. Violations of the right to life of women

414. During 1994, the Special Rapporteur acted upon alleged violations of the right to life of 118 women. As stated earlier, these are the cases where it was specifically indicated that the victim was female, or where this was clear from the name of the person concerned. Violations of the right to life of women were said to have occurred in the following 29 countries: Argentina (2 women), Bangladesh (1), Brazil (1), Cambodia (1), Chad (1 said to be pregnant), China (1), Colombia (35), Djibouti (2), El Salvador (2), Ethiopia (2), Guatemala (15), Haiti (1), Honduras (2), India (3), Indonesia (2), Iran (Islamic Republic of) (1), Iraq (1), Israel (2), Mexico (3), Myanmar (1), Pakistan (1), Peru (7), Philippines (2), South Africa (2), Sri Lanka (2), Togo (7), Turkey (2), Venezuela (1), Zaire (5).

415. As in 1993, the proportion of women among the victims of alleged extrajudicial, summary or arbitrary executions appears to be very small and again suggests that women are not particularly targeted because of their sex. The Special Rapporteur's analysis as presented to the Commission on Human Rights at its fiftieth session is still pertinent (E/CN.4/1994/7, para. 716): the underrepresentation of women in positions of influence means that they are less exposed to acts of violence, as they are not regarded as so much of a threat; this translates into a much smaller number of attacks. On the other hand, women who are actively participating in public life seem to be in a position similar to their male counterparts. Thus, during 1994, the Special Rapporteur acted on behalf of the following cases: human rights activists Hebe de Bonafini (Argentina) and Nineth de Montenegro (Guatemala); indigenous leader Teófila Roa (Colombia); political activists Aída Abella (Colombia), Nidia Díaz and Marta Alicia Mejía Herrera (El Salvador); trade unionist Sonia Victoria Wilson (Guatemala); community activist Clare Stewart (South Africa); writer Taslima Nasreen (Bangladesh), as well as lawyers Elena Mendoza (Argentina) and Dr. Emma Vigueras Minaya (Peru). Moreover, in a

number of cases, women were said to be targeted for being related to men who were persecuted, for one reason or another, by security forces or groups cooperating with them.

3. Violations of the right to life of persons belonging to national or ethnic, religious and linguistic minorities

416. In a number of cases that have come before the Special Rapporteur in 1994 it was alleged that the victims subjected to death threats or extrajudicial, summary or arbitrary executions belonged to national, ethnic, religious or linguistic minorities. Such cases were said to have occurred in the 19 countries as listed below. The national, ethnic, religious or linguistic groups to which the victims were said to belong is noted in parenthesis: Bangladesh (Jumma people), Brazil (a member of the Maxcui indigenous community), Cambodia (ethnic Vietnamese), Cameroon (Shua Arabs), Colombia (members of various indigenous organizations), Djibouti (members of the Afar ethnic group), Guatemala (a member of the Cakchikel indigenous group), Honduras (a member of the Xicaque indigenous group), Iran (Islamic Republic of) (leaders of Christian churches), Iraq (Marsh Arabs), Israel (Palestinians), Mali (members of the Tuareg ethnic group), Mexico (members of various indigenous organizations), Nigeria (members of the Ogoni ethnic group), Pakistan (persons belonging to the Christian faith, members of the Ahmadiyya community), Turkey (Kurds), United States of America (black Americans), Venezuela (members of the Yucpa indigenous community), Zaire (persons originating from Kasai). Reference is made to the sections of the present report concerning these countries. The Special Rapporteur calls on all Governments to ensure full respect for the rights and guarantees of national or ethnic, religious and linguistic minorities.

4. Violations of the right to life of staff members of the United Nations and of the specialized agencies

417. In 1994, the Special Rapporteur was informed of an amnesty granted to several military officers involved in the assassination of a staff member of the Centro de Estudio de Demografía para América Latina (CELADE), an or pertaining to the United Nations, in Chile (see above para. 91).

5. Violations of the right to life against persons exercising their right to freedom of opinion and expression

418. As in the past, the Special Rapporteur received a preoccupying number of reports and allegations concerning violations of the right to life involving a breach of the right to freedom of opinion and expression, peaceful assembly and association. More than 520 persons were said to have been victims of extrajudicial, summary or arbitrary executions or death threats, including members of political parties and movements, trade unionists, human rights activists, members of professional associations, particularly lawyers, participants in demonstrations, writers, poets and journalists in the following 37 countries: Afghanistan, Angola, Argentina, Bangladesh, Brazil, Cambodia, China, Colombia, Costa Rica, Cuba, Djibouti, Egypt, El Salvador,

Ethiopia, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Mexico, Nepal, Nigeria, Pakistan, Peru, Philippines, Rwanda, South Africa, Sri Lanka, Togo, Turkey, Uruguay, Uzbekistan, Venezuela, Zaire.

419. The Special Rapporteur urges all Governments to respect fully the right of all persons to freedom of opinion and expression, peaceful assembly and association, as guaranteed in the pertinent international instruments. Where the peaceful exercise of this right in the context of political opposition parties or movements, trade unions, or human rights and other civic or professional associations is perceived as a threat by security forces, armed groups cooperating with them or certain sectors of the civilian society, Governments should make clear and public statements recognizing the legitimacy of such activities and calling for respect and tolerance. The Special Rapporteur also urges Governments to take decisive action against all those responsible for violations of the right to life.

6. The right to life and the administration of justice

420. As in the past, the Special Rapporteur has paid particular attention to the protection of human rights in the administration of justice. Fair trial issues are of relevance to his mandate in connection with judicial proceedings that may lead to the imposition of the death penalty (see above paras. 373 to 385). Rights and guarantees of due process of law must also be respected in proceedings against those responsible for violations of the right to life. The Special Rapporteur calls on all Governments to provide for legislation governing trial procedures in full conformity with the safeguards and guarantees contained in the pertinent international instruments, and to ensure that these standards are applied in practice.

421. During the past year, the Special Rapporteur was concerned at reports and allegations of death threats and extrajudicial, summary or arbitrary executions against judges, prosecutors, lawyers, complainants and witnesses in judicial proceedings involving agents of the State before national jurisdictions in Argentina, Brazil, Colombia, Mexico, Peru, the Philippines and Turkey. In the case of Turkey, allegations were received of violations of the right to life against persons who had filed complaints of human rights violations with the European Commission on Human Rights. The Special Rapporteur launches an urgent appeal to all Governments concerned to ensure that those involved in the administration of justice, in whatever capacity, may exercise their functions freely, without being subjected to harassment, threats or, in the extreme case, extrajudicial, summary or arbitrary executions. The Special Rapporteur calls on Governments to provide for adequate protection including funds for the employment of bodyguards trusted by those under threat or measures to ensure the safety of witnesses.

7. The right to life and terrorism

422. A number of countries encounter the problem of violence caused by armed opposition groups resorting to terrorism as a means and tactic of armed struggle against the Government. The Special Rapporteur received many reports of killings by terrorist groups directed against members of the security forces, but also indiscriminately against civilians, with the aim of spreading

terror and insecurity among the population, for example in Algeria, Colombia, Egypt, India, Israel, Peru, the Philippines and Turkey. The Special Rapporteur notes with concern the similarity of the reaction of Governments in countries such as Colombia, Guatemala, Peru, the Philippines and Turkey, where such armed insurgent groups operate in rural areas: a counter-insurgency strategy aimed at isolating the armed insurgents by eliminating all those known or suspected to be members or supporters of these groups. 7/

423. While the Special Rapporteur acknowledges the seriousness of the problem and fully understands the difficulties faced by the security forces in trying to bring the situation under control, he emphasizes that the right to life is absolute and must not be derogated from, even under the most difficult circumstances. The Special Rapporteur urges all Governments facing the problem of armed opposition resorting to terrorism to ensure that security forces personnel carry out their operations with full respect for the right to life and within the restrictions on the use of force and firearms set forth by the pertinent international instruments.

8. The right to life and civil defence forces

424. Self-defence groups formed by civilians, particularly in rural, often remote areas continue to be used as a form of protection against threats to lives and property in a number of countries. As in the past, they were said to be used as auxiliaries of the security forces in their struggle against armed insurgents. Most of these groups have been referred to repeatedly in the Special Rapporteur's reports of the last years: the civil defence patrols (PAC) in Guatemala, the rondas campesinas and comités de defensa civil in Peru, the Citizens' Armed Forces Geographical Units (CAFGUs) in the Philippines, Home Guards in Sri Lanka, and the Kontrgerilla and Village Guards in Turkey. The Special Rapporteur continues to receive allegations of the same nature as in former years: extrajudicial, summary or arbitrary executions committed by members of such groups, either in cooperation with security forces or with their acquiescence, and with virtually total impunity. Those suffering from abuses by civil defence groups are in most cases peasants, either because they are suspected of being members or supporters of the armed insurgents, or because they refuse to participate in the self-defence groups. Thus, experience has led to the almost paradoxical conclusion that civil self-defence groups, rather than improving security in the area they are operating in, appear to contribute very often to an increase in the level of insecurity.

425. Thus, the Special Rapporteur notes with concern that his recommendation, expressed on repeated occasions, that these groups be subjected to strict control appears not to have been implemented. He has not received any indication that the arms distributed to such groups have been registered. Similarly, the reports and allegations of abuses imputed to members of these groups suggest that either no efforts have been made to train them to act in conformity with the restrictions and limitations on the use of force and firearms contained in the pertinent international instruments, or that such efforts have not been successful. The Special Rapporteur therefore feels compelled to urge the Governments concerned to dismantle such groups and ensure that arms distributed to them are returned to the security forces.

9. The right to life and mass exoduses

426. In the framework of the mandate of the Special Rapporteur, information on massive displacements of populations is received mainly in the context of communal violence and indiscriminate military attacks against areas inhabited by civilians during counter-insurgency operations. As stated earlier, government forces often do not intervene to halt violence between different groups of the population. In many instances, the Government forces are even said to foment such confrontations and support one side. Often, those belonging to the less favoured group flee their areas of residence. This was reported, for example, in the case of the Jumma people of the Chittagong Hill Tracts in Bangladesh, many of whom have sought refuge in Tripura, India. Massive internal displacement and refugee flows followed the mass killings of October and November 1993 in Burundi. Similarly, members of the Afar ethnic group in Djibouti moved to the capital to escape violence in the north of the country. Indiscriminate bombing of civilian settlements as part of government counter-insurgency tactics have been reported over the years in Colombia, Guatemala or south-eastern Turkey. There, too, massive displacement of populations was said to be the result. Armed conflicts such as those in the territory of the former Yugoslavia, Nagorno-Karabakh, Abkhazia or Rwanda, which cause the deaths not only of combatants but also numerous civilians, including children, women and elderly persons, also generate the exodus of large numbers of people. From the reports and allegations brought to the attention of the Special Rapporteur, it becomes clear that, as long as communal violence or armed conflicts continue, internally displaced and refugees do not dare to return to their home areas. Often, this situation persists after the cessation of armed confrontations, as the climate remains insecure and returnees are subjected to threats and harassment or are even killed.

427. The Special Rapporteur is concerned at reports of violations of the right to life not only in the context of the hostilities creating the exodus of populations but also as a result of violence directed against displaced persons and refugees. Reports of extrajudicial, summary or arbitrary executions and threats, allegedly by security forces, against displaced persons, for example in urban areas in Colombia or Peru, where the displaced live in conditions of poverty and misery, or in Djibouti, are most disturbing. The Special Rapporteur has also learnt with deep concern of violence by Zairean security forces against refugees in camps along the border with Rwanda, and of killings within the camp housing several hundred thousand Rwandan refugees in Benaco, United Republic of Tanzania. There, refugees have been abused as human shields behind which those allegedly responsible for mass killings and other war crimes have been hiding. In addition, as they receive donations of food, clothes, etc. from the international community and thus constitute a source of revenue, refugees are prevented by the latter from leaving the camps and returning to Rwanda. In the camps in northern Burundi, along the border with Rwanda, refugees are exposed to reprisal attacks each time violence flares up between the ethnic groups in Burundi. In addition, the Special Rapporteur repeatedly received reports of death threats and extrajudicial killings, allegedly with the involvement of the security forces, of Guatemalans who had returned to their country after being refugees in Mexico, and of members of organizations providing them with assistance.

428. There is general awareness of the threat this situation poses to the right to life and security of those seeking refuge from violence in their countries or areas of origin. Once a person is accepted into the territory of a State, for example, as a refugee or asylum seeker, it is the obligation of this State to protect him or her from violations of the right to life. Indeed, the very purpose of the right to asylum is to protect lives. Those responsible for violations of the right to life should be brought to justice before the national courts of the host countries. Where the receiving countries are unable to cope with the refugee flow, the international community should provide them with assistance to guarantee security within the camps and to strengthen their own criminal justice systems, as appropriate. A common effort should be made to avoid refugee camps becoming rife with practices violating the right to life and the status of refugees.

429. The Special Rapporteur calls on all Governments to do their utmost to avoid massive exoduses of populations. Reference is made to the sections above containing recommendations aimed at preventing the outbreak of communal violence and abuses against the civilian population in counter-insurgency operations or during armed conflicts. The recent past has shown very clearly that the cost of prevention is relatively small when compared with the enormous amount of resources that have to be put into place to try to limit abuses and violations, including violations of the right to life, that accompany and follow mass exoduses. For a broader overview of the phenomenon and its repercussions on different aspects of human rights, reference is made to the report on human rights and mass exoduses presented to the Commission on Human Rights by the Secretary-General (E/CN.4/1995/49).

10. Forensic experts

430. The Special Rapporteur has repeatedly referred to the need for the assistance of specialists in various forensic disciplines during investigations into extrajudicial, summary or arbitrary executions and the importance of support for efforts to establish a standing team of independent experts that could participate in such examinations to ensure that they are carried out according to the highest professional standards. During 1994, the Special Rapporteur has reiterated the need for forensic experts, indispensable for thorough investigations of human remains, in communications to the Governments of Gabon, Guatemala, Mexico, Peru, Sri Lanka and Venezuela. The Special Rapporteur could also envisage availing himself of the assistance of a forensic expert during on-site visits where preliminary investigations might be required.

11. World Conference on Human Rights

431. As pointed out in his report to the Commission on Human Rights at its fiftieth session, the Special Rapporteur regrets that the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights in 1993, does not include a programme to eliminate extrajudicial, summary or arbitrary executions. He also notes that, contrary to the announcements made at the World Conference, the resources of the Secretariat have not been strengthened in a way that could be felt in work of the past year.

12. Prevention

432. By way of conclusion, after three years of activities, the Special Rapporteur cannot but repeat that extrajudicial, summary or arbitrary executions can be fought effectively only if there is a genuine will to recognize and enact the safeguards and guarantees for the protection of the right to life of every person. Declarations of commitment to the protection of the right to life by Governments, either unilaterally or together with others, for example through numerous resolutions adopted in different forums, have not been lacking. These declarations, however, are only effective to the extent to which they are translated into practice. If the aim is protection of the right to life, the emphasis must be on prevention of violations of this fundamental right and their consequences, which are very often irreparable. Again, the importance of fighting impunity cannot be overemphasized.

433. The Special Rapporteur calls upon each Government to respect and protect the right to life by bringing to justice and punishing all those responsible for violating it. The Special Rapporteur also appeals to all Governments to seek peaceful solutions, at the earliest possible stage, to potential conflict situations and to refrain from fomenting differences and promoting violence between different groups of citizens, both in their own and in other countries.

434. The Special Rapporteur calls on the international community to concentrate its efforts on the effective prevention of further human rights crises, and on the implementation of the standards already existing for the protection of the right to life. The Special Rapporteur feels that one of the ways to do so would be to take decisive action in cases where Governments are clearly not complying with their obligations under international law to protect the right to life of every person. In his first report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur had pointed out the problem of Governments that consistently refused to cooperate and sought guidance from the Commission as to which strategy to pursue in such cases (see E/CN.4/1993/46, para. 692). He wishes to call once again on the member States of the Commission to give thought to this problem and consider appropriate measures in cases where Governments clearly do not cooperate with the special rapporteurs. The appointment of country-specific special rapporteurs as a way to ensure permanent monitoring of the situation should be envisaged.

435. Decisive action by the Commission on Human Rights in the case of Rwanda would not necessarily have averted the human rights catastrophe in that country. The Commission's lack of interest, however, has certainly not helped to prevent the death and suffering of many thousands.

436. In this context, the Special Rapporteur calls on the Commission on Human Rights to intensify its efforts to establish an early-warning mechanism that could be activated when the signs of an imminent crisis become apparent, as was the case in Rwanda. In the present situation, the Special Rapporteur fears that with the Commission showing little or no interest in the reports of its special rapporteurs, representatives, independent experts or working

groups, whatever impact these procedures may have with regard to early warning and prevention of incumbent human rights and humanitarian crises is simply lost.

437. The Special Rapporteur also wishes to encourage the non-governmental organizations and individuals who have provided him with information on alleged violations of the right to life, and whose role in alerting the international community is particularly important, to continue their efforts and pay particular attention to signs of incipient conflict situations.

438. As in the past, the Special Rapporteur is ready to offer his full collaboration and assistance to all who wish to engage in the common endeavour to promote respect for and enjoyment of the right to life.

Notes

1/ As in the past, it should be noted that these figures do not necessarily reflect the actual proportion of minors and women among the victims of alleged violations of the right to life. They constitute cases in which the age or sex of persons identified by their names has been specifically indicated by the Special Rapporteur.

2/ Brazil, urgent appeal of 2 June 1994 (500 unidentified persons); Burundi, 10 and 25 March 1994 (300); Colombia, 18 August 1994 (100); Mexico, 17 January 1994 (100); Rwanda, 17 January 1994 (300); Venezuela, 17 January 1994 (150).

3/ The Governments of the countries marked with an asterisk have transmitted replies to allegations transmitted to them during previous or subsequent years.

4/ Fifth Survey on Capital Punishment and on the Implementation of Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty (1995).

5/ In this context, the Special Rapporteur refers to the situation in Colombia. More than 2,000 members of the political party Unión Patriótica (UP), founded after a bilateral peace agreement between the Government and guerrilla groups, have been killed after they had laid down their arms and started to participate in the electoral process in 1986. Responsibility for these killings has been imputed to members of the security forces, paramilitary groups allegedly cooperating with them as well as guerrillas. Similarly, members of the political movement Esperanza, Paz y Libertad (ELP) have become targets of violence, in many cases at the hands of their former comrades in arms of the guerrilla group Ejército Popular de Liberación (EPL). Reference is made to the pertinent sections of the Special Rapporteur's report on his visit to Colombia in October 1994 (E/CN.4/1995/111).

6/ See, for example, Bleier v. Uruguay, communication No. 30/1978; Guerrero v. Colombia, communication No. 45/1979; Barbato v. Uruguay, communication No. 84/1981; Baboeram et al v. Surinam, communication Nos. 146/1983 and 184-154/1983; Herrera Rubio v. Colombia, communication No. 161/1983; Miango v. Zaire, communication No. 194/1985.

7/ For a more detailed analysis, the Special Rapporteur wishes to refer to the pertinent sections of the reports on his visits to Peru (E/CN.4/1994/7/Add.2) and Colombia (E/CN.4/1995/111).

Annex

INTRODUCTORY STATEMENT OF THE SPECIAL RAPPORTEUR TO THE COMMISSION ON HUMAN RIGHTS AT ITS FIFTIETH SESSION

2 MARCH 1994

Mr. Chairman,

The report I have the honour to introduce today before the Commission on Human Rights is the second I have submitted to you and the twelfth since the establishment of the mandate currently entrusted to me. It is an incomplete panorama, at times even a summary overview, enriched by some observations, of allegations of violations of the right to life brought to my attention in 73 countries during 1993.

No continent, no political or economic system has been spared summary executions. Women, children, the elderly, the mentally ill - none have escaped. Those fighting against racial, ethnic or religious discrimination or who are active in the defence of economic, social, cultural, civil and political rights, those who claim their right to live on the land of their ancestors, those exposed to the jungle of the cities, those who have lost their freedom, those who have been forced into exile, and those who have been caught up by conflict, insurrection and war, have been particularly affected.

During 1993, 217 urgent appeals concerning over 1,300 persons have been transmitted to 52 Governments in response to allegations of imminent or threatened extrajudicial, summary or arbitrary executions. Since my previous report was finalized in November, I have already transmitted an additional 40 urgent appeals. Furthermore, over 2,300 cases of alleged executions have been sent to 51 Governments by letter. I have also followed up with Governments and the sources those allegations transmitted in 1992 and 1993.

This considerable amount of work could only be accomplished thanks to the highly skilled and generous assistance of two experts of the Centre for Human Rights, only one of whom worked on the mandate on a full-time basis. I would like to take this opportunity to publicly express my appreciation to them.

In 1993, as in the past, nothing could have been achieved without the support, essential to my work, of non-governmental organizations. The information and suggestions received from them were invaluable to me in the discharge of my mandate. Without them, the scarcity of resources at my disposal would have been even more serious. I cannot thank them enough.

In 1993, too, the dialogue initiated with Governments continued and even intensified, in the context both of regional groups and of bilateral correspondence and meetings.

On the understanding that the fate of their fellow citizens was, in fact, of concern to everyone, and that the difficulties encountered in the protection of their fundamental right to life could be overcome through a joint effort, many Governments have cooperated sincerely and attentively.

Many have expressed their appreciation at the questionnaire which I prepared to facilitate substantiated replies to the allegations and requests for information transmitted.

I would like to take this opportunity to thank those Governments that have provided me with replies after the finalization of my report, namely: Algeria, Argentina, Brazil, Burundi, Chile, China, Colombia, Cuba, Ecuador, El Salvador, Gabon, India, Indonesia, Iraq, Kuwait, Malaysia, Mexico, Myanmar, Nepal, Pakistan, Peru, the Philippines, Republic of Moldova, Sri Lanka, Sudan, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland and Zaire. An analysis of their replies will be contained in my next report.

Unfortunately, other Governments have chosen to remain silent. And even though, finally, I have received communications from all countries included in the list of States that had never replied since the establishment of the mandate in 1982, I must say that the quality of the replies received varies greatly.

I would like to express particular thanks to those Governments that have invited me to visit their countries to examine in situ, with the indispensable support of non-governmental organizations and individual citizens as well as families of victims, ways and means to improve protection for the right to life. I am referring to the Governments of Rwanda and Peru, which I visited in 1993, as well as Algeria, Argentina, Burundi, Colombia, Indonesia and Sri Lanka, which have invited me to carry out visits there. Consultations have been initiated with regard to possible visits to Azerbaijan and India.

I hope that these countries will provide an example to the Governments of Bangladesh, China, Tajikistan and Turkey, to which I have expressed my desire to be invited.

Since the presentation of my report to the Commission on Human Rights at its forty-ninth session, I visited Croatia at the request of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki. I also visited Rwanda, in April 1993, and Peru, in May-June 1993.

In Rwanda and Peru, I received the full cooperation both of Governments and of non-governmental organizations, as well as essential logistical support from UNDP.

But since I submitted my reports on these visits to the Rwandese authorities, not only have I not received any comment on the recommendations and conclusions it contains, but the situation in the country has deteriorated. The Arusha peace accords were not been fully respected within the deadline set for their implementation. The violent events of the last days are said to have caused some 100 deaths, increasing the number of victims of political violence since the beginning of 1994 to approximately 400, despite the presence of a United Nations mission in the country. This is an appropriate moment to insist on the need for a human rights component in United Nations peace-keeping or observer missions. This conditio sine qua non for their success is mentioned in my report.

It is also certain that the problem of Rwanda cannot be seen removed from its regional context nor its links with and repercussions on the crises in Burundi and eastern Zaire ignored. It is vital that any suggestion for a solution to the problem take into consideration events and developments in each of these countries. In this context, I regret that the proposed bi-thematic regional visit by myself and Mr. Francis Deng, Representative of the Secretary-General on internally displaced persons, had to be postponed.

As concerns Peru, I have noted with satisfaction certain reforms that have been carried out after my visit, particularly with regard to legislation governing proceedings against those accused of terrorism. However, it remains preoccupying that certain of the shortcomings identified have not only not been corrected but, on the contrary, have been institutionalized. I am referring to the case of the killing of a professor and nine students kidnapped from the University known as "La Cantuta" in Lima, a detailed description of which is contained in my mission report. In this context, I wish to emphasize once again the importance of the assistance of specialists in forensic medicine in investigations into extrajudicial, summary or arbitrary executions. I appeal to the international community to continue its efforts to establish a standing team of forensic experts who could assist Governments in complying with their obligation to conduct investigations into each case. I also call on Governments to draw on the expertise gained by these specialists.

This is also the moment to express the wish that a visit be seen as the beginning of a more profound dialogue, enriched by the impressions gathered during the mission, rather than the end, literally and figuratively, of cooperation with the country visited. It would be a pity if an invitation was seen as a purely formal concession, which would dispense the Government from initiating or pursuing vital reforms.

I would now like to draw your attention to two phenomena, notable both for the frequency of their occurrence and for the gravity of their impact on the enjoyment of the right to life within the framework of the norms and instruments which the United Nations has continued to refine: the death penalty and impunity.

In fact, at a time when a small African country, the Gambia, took advantage of the opportunity offered by the World Conference on Human Rights to announce the abolition of the death penalty, other places around the world have shown a tendency to expand the scope of the death penalty and to reduce the guarantees for a fair trial and the effectiveness of appeal procedures. Thus, in China, Pakistan and the United States of America, persons under 18 years of age have been sentenced to death and even executed. Furthermore, some countries have adopted legislation restricting guarantees of impartiality and the right to defence, sometimes by resorting to military jurisdictions. Often, in proceedings resulting in death sentences the remedies are limited or non-existent. Those countries are: Algeria, China, Egypt, the Islamic Republic of Iran, Kuwait, Malawi, Malaysia, Nigeria, Pakistan, Peru, the Syrian Arab Republic, Tajikistan and the United States of America. Finally, the scope of the application of capital punishment has been expanded recently through new laws in the following countries: Bangladesh, China, Egypt, Pakistan and Saudi Arabia. The United States of America is said to intend to follow their path.

The death penalty is in itself a negation of the right to life. When applied in such circumstances, it is equal to a summary or arbitrary execution which, in any case, contradicts the clearly expressed wish of the international community to make its application an exceptional event, and to arrive, one day, at a universal consensus on its abolition. I appeal to your Commission to ensure that the tendency I have mentioned is fought against and inversed, and that the study of this grave problem is given priority.

The second vital preoccupation over the past year is the perpetuation and expectation of impunity by perpetrators of extrajudicial, summary or arbitrary executions, even when the facts and their authors are known to everyone.

Sometimes, Governments simply refuse to investigate crimes. On other occasions, a few scapegoats receive light sentences, while those really responsible are not bothered, or the judicial system is allowed to remain in a state of paralysis.

Sometimes, impunity is even guaranteed by law. Often, an amnesty law, passed under the pretext of national reconciliation, covers with a veil of shameless silence the atrocities committed. These facts are all the more preoccupying as the victims are not taken into consideration by the law makers and are not even given compensation.

Impunity is the negation of justice, which is the foundation of any democratic society. Impunity is the bankruptcy of the state of law. It opens the door to violence. It prevents the truth from prevailing, passions from calming and evil from being eradicated. This is why it is crucial that your Commission appeal to all States to respect the obligation to investigate all alleged violations of the right to life, attribute responsibilities, bring their authors to justice, compensate those entitled to it and take the necessary steps to prevent the recurrence of extrajudicial, summary or arbitrary executions.

This is how the Commission on Human Rights must respond to one of the most profound desires expressed to it at its fiftieth session.

Finally, I should like to draw your attention to the dramatic lack of resources affecting us: it is no longer possible to continue the efforts which you recommended us to undertake with the scarce material and technical means and the penury of human resources at our disposal. Human rights must not only be a subject for speeches or an alibi. The only way of testing the willingness of the international community to make their universal respect the common patrimony of humanity of the men and women of the twenty-first century is to devote to this at least a tenth of what it spends to arm itself and kill. As for me, I only ask for three assistants and one secretary at the Centre for Human Rights to be able to serve you better in 1994.

I would also like to take this opportunity to welcome, as a concrete result of the preparation process for the World Conference on Human Rights in Vienna, and of the Conference itself, the dialogue and joint projects with the other rapporteurs, representatives and chairmen of working groups of the Commission on Human Rights, to whom I am linked in a solidarity of the poor relatives of the United Nations system. Once again, I appeal to the international community to support what it says it most cares about: respect for human rights.

Mr. Chairman, thank you for your attention.
